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BY

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Samuel Johnson.

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SOCIETY OF COMPARATIVE LEGISLATION.

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	£ s. d.	£ s. d.		£ s. d.	£ s. d.
To Subscriptions:			By Publication of *Journal*:		
Government	219 9 0		Printing vol. vii, pt. 4	171 13 0	
Non-Government	444 15 6	664 4 6	Printing vol. viii, pt. 1	165 3 0	
			Printing vol. viii, pt. 2	176 2 2	
„ Grants:			Printing vol. viii, pt. 3	135 13 6	
Law Society	21 0 0			648 11 8	
Lincoln's Inn	21 0 0		*Add* Paper for *Journal*	49 4 7	697 16 3
Middle Temple	21 0 0				
Inner Temple	21 0 0		„ Salary of Secretary		250 0 0
Gray's Inn	21 0 0		„ Rent of Chambers	100 0 0	
Government of Fiji	10 0 0		*Less* Rent received	40 0 0	60 0 0
Royal Colonial Institute	5 5 0	120 5 0			
			„ Lighting, Heating, and Cleaning of Chambers		12 18 3
„ Sales of *Journals*, including Back Numbers	104 16 6		„ General Expenses, including Postage and Insurance		19 11 0
Less Cost of Reprints	12 18 10	91 17 8	„ Telephone		9 10 11
			„ Stationery		2 1 7
„ Sale of *Great Jurists of the World*		1 10 8	„ Audit of Accounts for the year 1925		3 3 0
„ Interest on War Loan		8 0 0	„ Purchase of £200 5% War Loan 1929/47 (Bearer Bonds)		200 16 0
		885 17 10			1,255 17 0
„ Cash at January 1, 1926:					
In hand	5 3 5				
At Bank	538 5 11	543 9 4			
„ Subscriptions in arrear received during 1926		14 14 0	„ Cash at December 31, 1926:		
„ Subscriptions paid in advance		32 11 0	In hand	4 12 5	
„ Proceeds of Advertisements for the year 1925		23 10 6	At bank	239 13 3	244 5 8
		£1,500 2 8			£1,500 2 8

We have examined the above Receipts and Payments Account with the Books and Vouchers, and certify that it agrees therewith. We have verified the Bank Balance and also the investment of £400 5% War Loan 1929/47 Bearer Bonds.

LONDON: 48, Copthall Avenue, E.C.2.
March 11th, 1927.

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INTRODUCTION.

[*Contributed by* F. P. Walton, Esq., LL.D.]

The Society expresses its gratitude to the band of learned contributors whose summaries of the legislation of many countries for the year 1925 are here collected together. As each summary is arranged under sub-headings, and as there is a fairly complete Index to the whole collection, it will, we hope, not be difficult for those who are interested in this new legislation to find what they want.

The New Property Laws in England.—Of all the multifarious enactments of the year the group of Acts which have placed the English law of property upon an entirely new footing may well be considered the most important. It will be many years before their full effect is appreciated, and, for the present, great as are the merits of the new laws, they have laid a heavy burden upon the backs of practising members of the profession, and a still heavier one, perhaps, on those of the teachers and students of law. Conveyancers who have to examime titles must know the old law as well as the new, and the young generation of lawyers cannot understand the new laws without a considerable knowledge of their history.

The Statute Book of the United Kingdom for 1925 is swollen to an altogether unprecedented size by the seven Acts: the Law of Property Act, 1925, the Settled Land Act, the Trustee Act, the Land Charges Act, the Administration of Estates Act, the Land Registration Act and the Universities and Colleges Estates Act.

Since the sixteenth century, at any rate, there has been no such heroic legislation as this in this branch, or, perhaps, in any branch of English law. As Professor Holdsworth has pointed out, these laws are much more than consolidation acts, such as the Bills of Exchange Act and the Sale of Goods Act. "The new Property Acts are remarkable mainly because they both codify and consolidate, on a scale never before attempted. They codify the oldest branch of the common law, and they consolidate, not only the numerous statutes of the nineteenth and twentieth centuries, but also statutes which come from all periods." [1]

The English law of real property had for centuries been crying out for reform. It was full of anomalies which even the most stout-hearted conservatives of a very conservative profession found it impossible to defend. The system of conveyancing was intricate and antiquated, as well as being unreasonably expensive, but as Sir Leslie Scott's Committee, which reported on Land Transfer in 1919, said, its main defects were not due to the practice of conveyancers but to the law of real property itself.

[1] *Law Quarterly Review*, 42, 158. An interesting sketch of the parliamentary history of the reforms will be found at p. 179.

Nearly half a century ago Maitland had stated the case for reform with unrivalled authority. He had ridiculed the absurdity of having two systems of property law, one for realty and one for personalty with different rules of succession, and he had characterized the principles of primogeniture and preference for males in succession to real estate as "prehistoric." [1]

For the benefit of our foreign readers it may be mentioned that under the old law the eldest son (to take the simplest case) got, not only all the real estate, but also an equal share with his brothers and sisters in the personalty. There was no such reasonable rule as exists in Scotland, that if the heir wanted to share in the personal estate he must collate the real property.

The new laws embody for the most part reforms which have been long advocated. Sir Leslie Scott says: "More than half a century of law reformers have contributed to them."

The new laws greatly simplify the whole system of conveyancing, they repeal the Statute of Uses, which Maitland described as "that marvellous monument of legislative futility," they abolish copyhold, dower and curtesy, and also quaint customs like borough English and gavelkind. They assimilate the law of real and personal property, and they introduce a new scheme of intestate succession applicable to both kinds of property under which no privilege attaches to primogeniture or masculinity.

Uniformity of Legislation. — As usual in various Dominions the legislation of the United Kingdom has been taken as a model. A study of the Statute Books of the various States which make up the British Empire would show that in many cases they have followed the lead given by the British Parliament. Among other examples in this year we may mention that Northern Ireland has laws on British lines upon Rent Control (p. 24), Dangerous Drugs (p. 30), Unemployment Insurance (p. 30), and Widows', Orphans', and Old Age Pensions (p. 28). Jersey, rather late in the day, has followed the Married Women's Property Act (p. 23).

In Palestine a legal system of a rather eclectic kind is being built up, and the old-fashioned Turkish law is being reshaped to meet the necessities of modern life. This year the greater part of the Ottoman administrative law has been replaced by legislation on English lines. An interesting attempt is also being made to convert those *wakfs*, *i.e.* charitable endowments, which exist for the benefit of non-Moslems, into charitable trusts in the English sense which shall be subject to the jurisdiction of the civil courts instead of that of the religious courts as heretofore (p. 186).

The Dominion of Canada has followed the example of England in allowing divorce for the adultery of the husband without requiring in addition cruelty or desertion (p. 47).

Canada has followed the United States of America in the excellent plan of having a Commission to draft uniform laws which may be adopted by the several provinces, and this year British Columbia has adopted the uniform Intestate Succession Act (p. 57), and also a uniform Act for the reciprocal enforcement of judgments pronounced in any other province of Canada (p. 59).

In the United States of America the Uniform Laws are spreading

[1] Collected Papers, I, 162.

rapidly, and a large measure of legislative uniformity in the various States has already been reached on many subjects of practical importance (p. 222).

Consolidation Acts and Revised Statutes.—Besides the seven great statutes already referred to, which consolidate the English law of property, numerous Consolidation Acts have been passed which will be found in the *Index* under the branch of law which they respectively consolidate. The publication of the Revised Statutes of Quebec, 1925, does not fall within this year (p. 66).

Constitutional and Administrative Law.—The Ireland (Confirmation of Agreement) Act settles points left over in the negotiations of 1921 with the Irish Free State (p. 2), and the Act of the Irish Free State gives effect to the agreement between Great Britain, Saorstát Eireann and Northern Ireland as to the boundary between the two Irelands and as to some other matters (p. 34).

In Canada serious difficulty has been caused by the decision of the Judicial Committee in *Toronto Electric Commissioners* v. *Snider*,[1] that the Dominion Industrial Disputes Act of 1907 was *ultra vires*. The natural remedy would be to amend the British North America Act, but this is not easy on account of the unwillingness of some of the provinces, and particularly Quebec, to permit the extension of federal powers. Another way out is for the provinces separately to pass industrial disputes acts on the same lines. In the year under review this course has been adopted by Saskatchewan (p. 73). In the Union of South Africa a very singular Act restores to the Constitution an express acknowledgment of Divine sovereignty (p. 128). There are many Acts which increase the salaries of Ministers or of members of legislative bodies (Ontario p. 62, Western Australia p. 112, United States of America pp. 199, 214, Bengal p. 157, Bihar and Orissa p. 159, Central Provinces p. 159, India p. 155, United Provinces p. 158). In the United States the salaries of senators and representatives were raised to $10,000 (p. 199).

Newfoundland introduced Woman Suffrage (p. 78). In Germany there is an interesting group of laws falling under this head (p. 192). Permanent officials in Germany have been to a great extent restored to their former condition of security of tenure, but female officials who are married may be discharged (p. 192).

Administration of Justice. — The English Act with this title, the Supreme Court of Judicature (Consolidation) Act, and the Criminal Justice Act are important measures which are summarized (pp. 5, 6). In Northern Ireland county courts are recognized (p. 32). In the United States a Federal Arbitration Act has been passed (p. 199). In the Sudan (p. 176) and in Zanzibar (p. 174) attempts are made to extend the authority of local native courts.

Criminal Law.—In criminal law the probation system makes headway (United Kingdom p. 6, United States of America p. 201, and Sudan p. 177). There is a tendency in the United States to lower minimum sentences, but the frequency of bank robbery has made it necessary in some States to increase the penalty for this crime (pp. 206, 207). In the United States there are some curious instances of the creation of novel crimes, such as deceptive advertising, bribing professional football players, etc. (p. 207). The Sudan has a new Penal Code (p. 176). In England the presumption of law has been abolished that an offence

[1] [1925] A.C. 396.

committed by a wife in the presence of her husband was done under his coercion, the presumption which occasioned the famous remark of Mr. Bumble (p. 7).

Local Government.—The new Act of the Irish Free State is specially important (p. 36).

Trade, Commerce and Merchant Shipping.—Attention is drawn to two Merchant Shipping Acts of the United Kingdom, one giving effect to international conventions as to labour, and the other dealing with difficulties in applying to foreign ships British requirements as to wireless telegraphy (p. 16).

The Canada Grain Act is important in itself and is interesting also as raising a question of constitutional law. The Act declares that grain elevators are works for the general advantage of Canada (p. 45). The British North America Act gives power to the Parliament of Canada to legislate exclusively for such works or undertakings as it declares to be for the general advantage of Canada, and it rather seems that by employing this method the Dominion Parliament can escape from the difficulty created by the decision of the Privy Council, which has been referred to above, when it desires to retain jurisdiction over local works or undertakings. The Alberta Coal Sales Act is an interesting attempt to secure that coal sold shall be of the quality stated (p. 50). New South Wales has introduced a forty-four hours' week (p. 86). In the United States of America many laws aim at securing that dairy produce offered for sale shall be up to a certain standard (p. 215). The Truth in Fabrics Act is also noteworthy (p. 216).

Labour.—Western Australia (p. 114) and Queensland (p. 91) have important laws as to Industrial Arbitration containing some novel features, and New Zealand has a Consolidation Act on this subject (p. 124). Both Western Australia (p. 116) and Queensland (p. 92) provide for the declaration of a "basic wage." In British Columbia the Board of Adjustment can fix a minimum wage for male employees, certain occupations excepted (p. 59). Alberta has a Minimum Wage Act for Women (p. 48). The Union of South Africa has a Wage Board for the whole Union (p. 131). There are amendments of the law as to Unemployment Insurance in the United Kingdom (p. 10) and in Northern Ireland (p. 30). In England the law of Workmen's Compensation is consolidated (p. 1).

Immigration and Aliens. — The Commonwealth of Australia gives increased powers to the Executive to prohibit the entry into the country of "undesirable" immigrants, and if a serious industrial disturbance has been declared to exist, power is given to deport persons not born in Australia whose presence there is in the opinion of the Minister injurious to the peace, order and good government of the Commonwealth (p. 84). In the United States there is a growing tendency to prevent such aliens as are incapable of becoming citizens from holding land (p. 207). There is also a crop of legislation limiting various professions to citizens only (p. 207). In Palestine there is a new Ordinance revising the law as to immigration (p. 188).

Marriage and Divorce.—Alberta has a new Marriage Act (p. 51). South Australia (p. 98) and New South Wales (p. 87) legalize marriage with a deceased husband's brother. Western Australia allows a divorce at the instance of a wife whose husband has been separated from her for three years under the decree of a Court or by a deed of separation, and has during that period failed to pay alimony for which he was liable

(p. 111). New Hampshire follows the example of New Jersey [1] in making children legitimate who are born of a marriage entered into in good faith, even if the marriage is annulled (p. 204). Oregon has an interesting law that if a man and woman have cohabited in the State as husband and wife for over a year and there are living children of the union, their marriage is valid and the children are legitimate. This seems to go much further than the Scots law of marriage proved by habit and repute, as apparently in Oregon the law converts into marriage a union meant to be illicit (p. 205). South Dakota makes chronic mania for five years a ground of divorce (p. 205).

Sex Equality.—There is a general tendency to pass measures to secure sex equality as far as the law is concerned. We may refer in England to the Guardianship of Infants Act (p. 13), in Saskatchewan to the Infants Act (p. 73) and in Jersey to a Married Woman's Property Act (p. 23). Newfoundland introduces woman's suffrage and gives women of twenty-five the right to be elected members of the House of Assembly (p. 78). In Canada the adultery of a husband is made a sufficient ground of divorce (p. 47). Arkansas abolishes the "curtesy of England" and South Carolina allows a married woman to sue or be sued as if unmarried (p. 204). Nevada allows a married woman to be appointed executrix (p. 208). In many States women acquire greater rights of succession and of administration (p. 212).

Adoption.—For reasons somewhat obscure the practice of adoption is on the increase in many countries. Every year we see new laws passed regulating the conditions and consequences of adoption. In 1925 laws of this kind were passed in Quebec (p. 71) and South Australia (p. 96).

Protection of Women and Girls.—In the Federated Malay States there is an enactment prohibiting the traffic in women and girls irrespective of their age (p. 163).

Children.—There is as usual much legislation for the protection of children. Alberta (p. 55) and New Zealand (p. 123) have new Child Welfare Acts. The New Zealand Act provides for Children's Courts. Several of the United States impose severe penalties for the desertion of a child (p. 204). In the United States there is a marked tendency to greater restriction of the employment of children (p. 214). In Germany a law prohibits the employment of children as actors in films without special permission from the administrative authority (p. 193).

Feebleminded Persons.—Legislation as to mental defectives is on the increase. We refer to Alberta (p. 49) and, more particularly, to American legislation. The policy of allowing sterilization in certain cases seems to be gaining ground in the United States (pp. 205, 209).

Motor Traffic.—There is a mass of legislation in the United States aiming at the prevention of driving licences being granted to unskilled persons, at the punishment of furious driving, and at the protection of purchasers against the risk of buying stolen cars (p. 208).

Townplanning.—There is a consolidation of the law of housing and townplanning for England and Scotland (p. 1). In the United States zoning legislation is spreading rapidly and useful hints might be got from this legislation (p. 213).

Education.—An important German law makes it possible in excep-

[1] See Introduction to the *Journal of Comparative Legislation*, Third Series, vol. viii, pt. iii, at p. xxxvi.

tional cases to hasten the passage from the elementary school to a higher school of children who show special intelligence (p. 192). Numerous American laws deal in various ways with the thorny question of religious education in state schools. The famous Act of Tennessee forbids the teaching of evolution. The movement spreads for teaching the Constitution in schools, and South Dakota instructs children in the use of the ballot. Oregon and Florida give higher instruction in Americanization (p. 221).

Taxation.—Attention is drawn to the German laws under this head, particularly to the law as to income tax (p. 194).

Miscellaneous.—The following laws are noteworthy for diverse reasons: the Widows' Pensions Act of New South Wales (p. 89), the United Church of Canada Act (p. 65), the Municipal Corruption Act of Quebec (p. 70) and the Witchcraft Ordinance of Kenya (p. 171). It would be easy to extend the list.

BRITISH EMPIRE.

I. BRITISH ISLES.

1. UNITED KINGDOM.

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THE statutory output of the Imperial Parliament during the session which began on December 2, 1924, and ended on December 22, 1925, was unprecedented. The text of the ninety-one public general Acts filled two stout volumes, and required 1,835 pages of type.[1] More than half of this consisted of consolidation measures and not of new law. The Government enjoying a comfortable majority, the Parliamentary machine worked smoothly; but complaint was heard in the upper chamber that an intricate measure like the Rating and Valuation Bill was sent up to the House of Lords without adequate time for its discussion before the prorogation.[2] Much of the legislation of 1925 had already been before one or other of the two Houses in previous years.

Improvement of the Statute Book.—Of the seven great consolidating Acts which reproduced in orderly form various branches of law revolutionized by Lord Birkenhead's Law of Property Act of 1922, something will be said later. Apart from these there were important consolidations of the law of housing and town planning for England and Scotland, the law of workmen's compensation and the law governing the Supreme Court of England. Making little direct demand on the general attention of Parliament and neither attacked nor advertised by political controversy, these measures passed unscathed through debates and divisions and remained a credit to model draftsmanship. If they added many pages to the Statute Book, they expunged many more. In the Table of Effect of Legislation appended to the two volumes of Acts of 1925 something like 160 old statutes are shown as repealed or prospectively eliminated; it will be unnecessary to print these in any future edition of Revised Statutes. The process of consolidation was accompanied in two cases by a special cutting away of dead matter from the Statute Book. The Law of Property (Amendment) Act (c. 5) not only collects and specifies the repeals effected by the 1922 Act, but also repeals a number of other enactments on the ground that they have thereby been rendered obsolete. Similarly, the Administration of Justice Act (c. 28) not only contains a normal schedule of repeals of enactments which its new provisions supersede, but also repeals a list of enactments set out in another schedule

[1] The largest volumes of sessional legislation in recent years were those of 1908 (736 pages), 1894 (the year of the great Merchant Shipping Act, 630 pages), and 1890 (639 pages).

[2] See also the debate on House of Lords procedure, Official Reports, House of Lords, March 1, 1927.

as having " by lapse of time or otherwise become unnecessary or obsolete," and authorizes the total or partial repeal by Rules of Court of twenty-six Acts relating to procedure.

A further improvement of the Statute Book occurs in the Expiring Laws Act (c. 76), two enactments hitherto continued annually being now made permanent.

Although so much was done by consolidation and the repeal of superseded and obsolete Statutes in respect of particular subjects of law, there was no general Statute Law Revision Act in 1925. No such enactment has now been passed since 1908, and the work which such Acts do is sadly in arrear.

Foreign and Imperial Affairs.—In negotiating a treaty of commerce with Germany in 1924, the British Government undertook to recommend to Parliament the removal of disabilities on former enemy aliens in respect of the non-ferrous metal industry, service on board British ships, and the carrying on of banking business in the United Kingdom. The Former Enemy Aliens (Disabilities Removal) Act (c. 43) carries out the undertaking.

The Anglo-Italian Treaty (East African Territories) Act (c. 9) gives the approval of Parliament to a treaty ceding to Italy certain land east of the Juba River in view of Art. 13 of the quadrilateral agreement made between Italy, Great Britain, France and Russia in 1915, before Italy entered the war on the side of the Allies. The China Indemnity (Application) Act (c. 41) deals with the payments exacted from China after the Boxer rising of 1900. The Finance Act of 1906 applied these to the reduction of the National Debt : they are now to be devoted to such educational or other purposes as, in the opinion of the Secretary of State for Foreign Affairs, are beneficial to the mutual interests of His Majesty and the Republic of China. An advisory committee is established in this connexion ; two of its eleven members are to be Chinese citizens and one at least must be a woman.

Within the British Empire the Ireland (Confirmation of Agreement) Act (c. 77) rounds off in a happier atmosphere certain points left outstanding in the first negotiations with the Irish Free State at the end of 1921. Under the Articles of Agreement to a Treaty (scheduled to 12 Geo. V, c. 4) the Free State assumed liability for its share of the public debt and war commitments of the United Kingdom, subject to counterclaim or set-off—a matter of most difficult calculation.[1] The new Agreement of 1925 releases the Free State from this obligation. The awkward situation of the Irish Boundary Commission under Art. 12 of the 1921 Agreement, the appointment of the Northern Ireland representative upon the Commission which necessitated legislation in 1924, and the enforcement of the boundary award—these problems are resolved by leaving the area of Northern Ireland as it stood under the Government of Ireland Act of 1920. The Agreement deals also with compensation for malicious damage to property. It was signed on behalf of all three Governments—British, Irish Free State, and Northern Ireland. It recites the desire to avoid causes of friction and the resolution " mutually to aid one another in a spirit of neighbourly comradeship " ; in transferring to the Government of Northern Ireland[2] the powers as to Northern

[1] See Lord Justice O'Connor's article in this *Journal*, February 1924.

[2] See The Administrative Provisions (N.I.) Act, 1926 (16 and 17 Geo. V, c. 4 (N.I.)).

Ireland originally destined for the Council of Ireland, it brings Northern Ireland and the Free State into touch, for the two Governments agree to " meet together as and when necessary for the purpose of considering matters of common interest arising out of or connected with the exercise and administration of the said powers." The 1925 Act, confirming the Agreement, repeals all references to the Council of Ireland in the 1920 Act, and the transfer of powers to Northern Ireland takes effect on April 1, 1926.

Certain modifications of the superior civil services of India in the light of the Lee Commission required the amendment of the Government of India Act. Ss. 67A and 72D of that Act gave the Indian Legislature and the Provincial Legislative Councils power to vote supply, but excluded from submission to that vote certain heads of expenditure—*e.g.* the salaries and pensions of chief commissioners and High Court judges. An Act of 1925 (c. 83) defines " salaries and pensions " in this context, extending the words to cover various financial concessions, and enlarges the categories of officers whose remuneration is thus protected. An addition is also made to s. 96B of the principal Act to guard the power of the Secretary of State to " deal with the case of any person in the civil service of the Crown in India in such manner as may appear to him to be just and equitable " ; rules may be relaxed for this purpose, but not so as to place the civil servant in a less favourable position.

The Fighting Services.—The peace-time functions of the coastguard are threefold—coast-watching and life-saving, naval signalling and wireless telegraphy, and the prevention of smuggling. The Coastguard Act (c. 88) institutes (or recognizes the existing institution of) a coast-watching force administered by the Board of Trade in place of the old force maintained by the Admiralty for nearly two hundred years. The Commissioners of Works may acquire lands for coastguard stations, and the lands and buildings previously vested in the Admiralty are to belong to, and be managed by, the Commissioners on behalf of the Board of Trade. In emergency the Admiralty can transfer this new coast-guard force to its own control ; if so, the officers and men become subject to the Naval Discipline Act and are borne on the books of one of H.M. ships in commission, with such ranks, ratings and pay as the Admiralty may determine.

The Army and Air Force undergo certain changes in the annual Act (c. 25) which continues their existence for another year. The death-penalty is abolished for various offences, such as impeding the provost-marshal or irregularly detaining provisions ; in other cases, such as striking or disobeying a superior officer, it is restricted to offences committed on active service. In effect the death-penalty is abolished in peace-time except for mutiny ; thus what had previously been the accepted administrative practice now obtains statutory confirmation. Certain disciplinary sections which formerly related to soldiers only are now extended to officers and other persons subject to military law. A sentence of cashiering passed under s. 16 of the Army Act (for scandalous conduct unbecoming the character of an officer and a gentleman) can now be commuted. The power of impressing carriages is adapted to mechanical transport, with a modernized procedure for determining and settling payment by reference to the County Court if necessary. Other amendments deal with deductions from an officer's pay, stoppages where a soldier is undergoing penal servitude, and prolongation of service

of men due for discharge or transfer to the reserve at a moment when invasion is apprehended though war has not been actually declared. If a person subject to military law has been arrested or has surrendered and has been taken to a police-station, then in any subsequent proceedings the fact, date and place of the arrest or surrender may be proved by a certificate purporting to be signed by the police officer in charge of the station. The cumulative effect of these annual piecemeal amendments upon the Army Act is hinted at by a new provision that whenever the Act is reprinted as a whole, its cross-headings may be altered as certified by the Clerk of the Parliaments to be necessary or expedient.

Agriculture. — The Agricultural Returns Act (c. 39) enables the English and Scottish departments to require annual returns from the occupiers of "agricultural land," *i.e.* land used as grazing, meadow or pasture land, or orchard, and any land used wholly or mainly for the purpose of the trade or business of a market gardener or nurseryman. The Act does not apply to holdings smaller than one acre. The return is to state the acreage of cultivated land, to specify the acreage of the cereal crops, the amount of land in fallow or used for grazing, the live-stock thereon and the persons employed and whether the latter are regular or casual workers. There is fresh legislation about allotments (c. 61). Local authorities, when preparing town-planning schemes, are to bear in mind the reservation of land for allotments. The Public Works Commissioners may lend to an approved society up to two-thirds of the purchase price of land to be used for allotments; the rate of interest is to be determined by the Treasury; and the loan is repayable within thirty-five years. An approved society cannot dispose of land without a two-thirds majority on a resolution for sale. Borough and urban district councils may incur expenditure out of the rates for the provision of allotments if it does not exceed a penny in the pound. Such councils may acquire land for prospective allotments though it is not immediately available for the purpose. An owner wanting to resume possession of unoccupied land used by a local authority must now give longer notice, especially if he wants the land for sport or recreation. A local authority is not to dispose of allotment land for any other purpose without departmental consent. Other parts of the Act deal with allotment committees and with rating. The cost of settling ex-service men upon the land is adjusted between the National Exchequer and the local authorities by the Land Settlement (Facilities) Amendment Act (c. 85), which varies and elucidates s. 27 of the 1922 Act. An amendment (c. 66) is made in the Seeds Act of 1920, which required the vendor to give the purchaser certain particulars of seeds or seed potatoes before sale. Summary proceedings had to be taken within six months if the particulars were false. This period, which was not long enough for the growth of the potatoes to permit verification, is extended to 12 months.

In 1922 Parliament remitted the excise duty on home-grown sugar; in 1924 it reduced the customs duties on sugar. It was then decided to grant a subsidy on home-produced sugar. This is done by the British Sugar (Subsidy) Act of 1925 (c. 12). A subsidy is made payable over ten years at scheduled rates on a diminishing scale per hundredweight of sugar or molasses manufactured in Great Britain from home-grown beet. To encourage the grower, it is enacted that the subsidy is not to be paid if the price for beet falls below a minimum of 44*s.* per ton for beets grown in the years 1924 to 1927. To encourage home trade, 75 per cent. of

the plant and machinery in the sugar factory or refinery must be wholly manufactured in Great Britain. Companies receiving the subsidy must send annual statements of account to the central departments in England and Scotland. The fair-wage clause, adopted in Government contracts, is applied except when some other rate is agreed upon by a council representing employer or employed in any particular factory. The excise duty on home-grown sugar is reimposed. There is a penalty for untrue statements or representations.

The Importation of Animals Act of 1922 settled a long controversy over the Canadian cattle embargo. S. 2 allowed the Minister of Agriculture in England to authorize the admission of Canadian animals other than store cattle. Doubt arose over the scope of this permission; moreover, the Imperial Economic Conference of 1923 declared for reciprocal trade in pedigree stock throughout the Empire, subject to precautions against cattle disease. The Importation of Pedigree Animals Act of 1925 (c. 30) allows the landing in Great Britain of any cattle, sheep, goats or swine from any part of His Majesty's Dominions which are shown to the Minister's satisfaction to be there registered as pedigree stock in a herd or flock book recognized by him after consultation with the Royal Agricultural Society of England and the corresponding Scottish societies. His Majesty's Dominions here include protectorates and mandated territories.

In September 1925 there came into force the suspended Milk and Dairies (Consolidation) Act of 1915, which, *inter alia*, restricted the supply of milk from tuberculous cows, and the Tuberculosis Order of 1925 dealing with the slaughter of tuberculous cattle. A Diseases of Animals Act of 1925 (c. 63) authorizes the Treasury to refund to the local authorities three-fourths of the compensation payable to the owners of condemned stock under the Order. The local authorities are not repaid for the cost of administration, but are allowed to keep any proceeds from the sale of carcases.

Other statutes dealing with tithes in England and teinds in Scotland and with rating and valuation, though closely connected with agriculture, will be separately mentioned later.

Administration of Justice.—An Administration of Justice Act (c. 28) partly effects overdue reforms and partly facilitates the consolidation of enactments governing the Supreme Court of England. Its first section allows the Lord Chief Justice, with the concurrence of the Lord Chancellor, to dispense with the holding of assizes at any place upon a circuit if no substantial business awaits transaction. It will be noted that this clause, which follows the Report (1923, Cd. 1831) of a Committee presided over by Mr. Justice Swift, makes no permanent abolition of assize-towns. Trial with a jury in the High Court is restored by s. 3 to the position occupied before the Juries Act, 1918, was passed; it is left to be dealt with by Rules of Court—a process which avoided controversy in Parliament. The qualifications of Supreme Court judges are defined; the inclusion of ex-judges in commissions of assize is authorized; and a second puisne judge is added to relieve the congestion of business in the Probate, Divorce and Admiralty Division. An Act of 1910 had fixed the number of King's Bench Division puisne judges at seventeen, but made it impossible to fill up a vacancy which reduced the number below fifteen except on an address from both Houses of Parliament. The 1925 Act gives such an address a continuous value for a year, so that

further vacancies can be filled during that period without a fresh address. Then comes a group of sections about Supreme Court offices and officers, the appointment of deputies, district registries and registrars, and the substitution of an Accountant-General of the Supreme Court (the Clerk of the Crown) for the Paymaster-General in respect of Supreme Court moneys, securities and properties : this group also deals with the accounting for funds in Court, the possible transfer of business from one division of the High Court to another, rules of procedure, fees, the qualifications for appointment to the positions of Permanent Secretary to the Lord Chancellor, Masters in the Chancery and King's Bench Divisions, official referees, official solicitor, and so on. Other parts of the Act modify the jurisdiction of the County Courts, arrange for transferring thereto any money recovered in the High Courts by infants or persons of unsound mind, and make new provision for the registration of deeds of arrangement, and the local registration of bills of sale. There are provisions, too, for administration bonds and the enrolling and engrossing of instruments and for facilitating the production of documents filed in, or in the custody of, the central office of the Supreme Court. Even this category of its contents does not exhaust the usefulness of the Act, for, as already stated, it improves the Statute Book by repealing a number of old enactments as being unnecessary and obsolete and it makes many others repealable by Rules of Court. Thus by judicious amendments and general revision of the law the way was paved for the Supreme Court of Judicature (Consolidation) Act (c. 49). Except for a few quasi-local Statutes dealing with the London Law-Courts sites and buildings which lay outside its scope, the consolidation is complete ; it repeals and re-enacts large passages of the Administration of Justice Act already described.

Crime and Criminal Procedure.—Part I of the Criminal Justice Act (c. 86) elaborates the system of placing offenders on probation. English petty sessional divisions, singly or in combination, are treated as probation areas ; each division and area is to have a probation committee with the duty of appointing one or more probation officers and supervising their work. The officers are to receive a salary or remuneration and, under the Home Office scheme, superannuation allowances. Agents of voluntary societies (police-court mission societies, etc.) may be appointed and paid as area officers or as probation officers in any individual case. The rest of the Act contains important miscellaneous provisions. Many offences, formerly triable only at assizes, may now be tried at quarter sessions ; many indictable offences may now be tried summarily. Grand juries may be dispensed with at quarter sessions where all the prisoners have already pleaded guilty. Witnesses whose attendance at trial may be unnecessary may be bound over conditionally by examining magistrates who have committed for trial a person charged with an indictable offence ; thus the witnesses will not need to attend at trial unless specially notified. There are fresh provisions for taking depositions and cautioning the accused ; for reading at trial the depositions of witnesses dead, insane or unfit to travel ; for committing to the next convenient assizes or quarter sessions to save delay in trial ; for trying a person charged with an indictable offence in the county or place where he was apprehended or is in custody (unless this involves hardship, and subject to appeal to the High Court) ; and for trying in the same place all the offences with which such a person is charged. Justices may issue process in the case of a

person outside their jurisdiction if it is thought expedient or necessary to try that person jointly with someone already charged. Criminal trials may proceed though a juryman dies or is discharged for illness or incapacity, provided that ten jurymen remain. A right of appeal to quarter sessions against a sentence imposed by a court of summary jurisdiction is given to anyone who has pleaded guilty or admitted the truth of an information. Simplification of language is promoted by a provision that every information, complaint, summons, warrant or other document in connexion with proceedings before justices shall be sufficient if it contains a statement of the specific offence charged, together with such particulars as may be necessary to give reasonable information as to its nature ; ordinary language is to be used and technical terms are to be avoided. There is new procedure for trying a corporation charged with an indictable offence. Fiats, consents, etc., of the Attorney-General, Director of Public Prosecutions, Postmaster-General and Board of Control, preliminary to the institution of criminal proceedings, are made admissible as prima facie evidence without further proof. It is now an offence to sketch, or take a photograph of, a judge, juryman, witness or party to proceedings in any English Court, civil or criminal, for purposes of publication. A person drunk while in charge of a motor-car on a highway in a public place may in future be sentenced to a fine of £50 and four months' imprisonment instead of the former penalty of 40*s*. or a month. There are new provisions as to the offences of forging a passport, being in unlawful possession of pension documents, or imitating currency or bank notes. A constable may arrest under warrant though he has not the warrant with him at the moment. Power is expressly given to release on bail before a charge is accepted. Finally, the Act abolishes at last the presumption of law that an offence committed by a wife in the presence of her husband must have been committed under his coercion, but it still allows the wife the defence of coercion in any case other than treason or murder.

A group of Acts which create new criminal offences or deal afresh with old abuses may here be noticed. The Protection of Birds Act (c. 31) makes it illegal to use a live decoy bird tethered by means of braces, or any bird which is blind, maimed or injured, for the purpose of attempting to take a wild bird alive. The use of bird-lime and similar substances is prohibited. It is also forbidden to keep a bird " in any cage or other receptacle which shall not measure sufficient in height, length and breadth to permit the said bird freely to stretch its wings," but there is a saving for poultry when conveyed by land or water or shown (if for no longer than 72 hours) for the purpose of a public exhibition or competition. Allegations of cruelty in the training and exhibition of performing animals were considered by a Select Committee in 1922. The upshot was the Performing Animals (Registration) Act, 1925 (c. 38), which makes registration compulsory. Local authorities are to undertake the registering ; applications for registration must give certain prescribed particulars as to the animals and the general nature of the performance ; these particulars must be entered on the register. There were questions whether the Act would apply to fish or insects : by way of answer it is briefly stated that " animal " does not include invertebrates. The Act does not apply to the training of animals for *bona fide* military, police, agricultural or sporting purposes. Authorized officers may enter and inspect premises, but must not go on or behind the stage during a public performance. A

court of summary jurisdiction may make an order prohibiting training or exhibition, or imposing conditions thereon, if satisfied that cruelty exists. It is an offence to disobey such an order or to conceal an animal from inspection, or *inter alia* to exhibit or train either without registration or in a manner not covered by an existing registration. Compulsory registration was also imposed on the employers of human performers. The Theatrical Employers Registration Act (c. 50) defines a theatrical employer as anyone who by himself or his agent engages or employs at any one time three or more theatrical performers. A theatrical performer includes any actor, singer, acrobat or performer of any kind employed for performance or rehearsal at a theatre, music-hall or other place of public entertainment; the words cover cinematograph artists and "all persons employed or engaged for purposes of a chorus or crowd, but shall not include stage hands and members of an orchestra." Borough and county councils are to keep registers; persons desiring registration must advertise the fact in advance in "a London newspaper devoted to the interest of the stage profession"; certificates of registration will be issued. It is an offence for a theatrical employer to carry on business without registration, apply to be registered while his registration is cancelled or suspended, supply false particulars, fail to produce his certificate, or—and this was the main reason for the Act—abandon his performers (*i.e.* absent himself without paying them or arranging for their pay) during the course of a theatrical engagement. Courts of summary jurisdiction can cancel and suspend licences, subject to appeal to quarter sessions. Nobody whose registration is cancelled may act as agent for a theatrical employer. Last in this group of criminal enactments comes the Honours (Prevention of Abuses) Act (c. 72), which arose out of allegations of trafficking in the distribution of honours a few years before. It is made a misdemeanour to give or offer, take or ask any gift, money or valuable consideration as an inducement to procure the grant of a dignity or title of honour. If this Act results in few prosecutions or convictions, it at any rate expresses public detestation of an ignoble phenomenon.

Finance.—The embargo on the export of gold (under 10 & 11 Geo. V, c. 70, s. 1) was to cease at the end of 1925. The Government wished to return to the gold standard, but had to find some way of maintaining it effectually without the internal circulation of gold. The Gold Standard Act (c. 29) suspends the existing legal right to demand gold from the Bank of England in exchange for notes, but obliges the Bank to sell gold bullion at the fixed price of £3 17*s.* 10½*d.* per standard ounce in the form of bars containing approximately 400 ounces of fine gold. The Mint need no longer assay and coin gold bullion for anyone under s. 8 of the Coinage Act of 1870 except gold bullion brought to the Mint by the Bank. All the foregoing provisions have effect only until His Majesty by Royal Proclamation otherwise directs. To defend the exchange value of the pound sterling the Treasury is given temporary power to borrow.

The Finance Act (c. 36) contains the usual budget provisions of customs and excise duties, income-tax and super-tax. The so-called M'Kenna duties (first imposed by 5 & 6 Geo. V, c. 89, s. 12, and terminated in 1924) are reimposed upon the importation of clocks and watches, motor-cars, musical instruments, etc. There are new customs duties upon the importation of silk and artificial silk, lace and hops, and an excise duty on artificial silk. The principle of imperial preference is

further developed. The rates of super-tax and of estate duty are altered. Income-tax relief is enlarged in respect of earned income, and an allowance made for persons who are sixty-five years of age. The deduction for wear and tear of machinery and plant, formerly allowed in respect of a trade, is extended to a profession, employment, vocation or office, thus presumably covering the case of the doctor's motor-car. Dominion Governments carrying on trading operations are made liable for income-tax; on the other hand, High Commissioners, Agents-General and their employees receive an ambassadorial immunity from income-tax, super-tax and land-tax. The Isle of Man (Customs) Act (c. 56) imposes customs duties and provisions which largely correspond with those of the United Kingdom budget. Apart from provisions discussed elsewhere in connexion with the sugar subsidy, tithe redemption, unemployment insurance and the new contributory pensions system, the financial enactments of 1925 include the usual Appropriation and Consolidated Fund Acts (cc. 8, 57 and 78), the Public Works Loans Act (c. 62), which this year had to appoint fresh Commisssioners for the five-year period of office, a Telegraph (Money) Act (c. 65), raising funds for telephone development, and two Acts relating to land purchase in Ireland. Of these the Irish Free State Land Purchase (Loan Guarantee) Act (c. 3) gives a British Government guarantee to the land stock of the Free State to the amount of £30,000,000. The Northern Ireland Act (c. 34) marks for the British Government a final stage in the land purchase policy which began in 1870 and was carried on by the Gladstone Acts of 1881 and 1885, the Balfour Act of 1891, the Wyndham Act of 1903 and the Birrell Act of 1909. In 1918 the Irish Convention, otherwise not unanimous, was able to agree upon the subject of compulsory land purchase. The 1925 Act gives effect to the Convention's scheme, except that money could now be borrowed at 4½ instead of 5 per cent. and that the scheme was now confined to Northern Ireland only. About a million acres remained unsold in Northern Ireland; the approximate value was nearly £9,000,000. This sum is to be capitalized at 4¾ per cent., bonds bearing 4½ per cent. are to be issued to the landlords, and the tenants will pay interest on these plus ¼ per cent. for a sinking fund. The landowners, who would get less than their old net rent, receive a bonus; they receive as income between 77 and 90 per cent. of the old net rental, while the tenant pays by way of purchase annuity between £70 and £80 for every £100 of his previous rental and after 66⅔ years the land will be his. There is thus an automatic sale of tenanted land; the powers of the Land Purchase Commission of Northern Ireland to acquire untenanted land are extended; the fixing of judicial rents (under the older Land Law (Ireland) Acts) is abolished. Unpurchased tenanted land is vested in the Commission as from the appointed day; s. 17 provides for the ascertainment of the land thus vested, the furnishing of information, maps and documents to the Commission, and the publication of provisional lists of the land. If no objection is made to the provisional lists, or if objections are removed, final lists are to be published which will be conclusive evidence of the vesting of the land on the appointed day. The appointed day for the operation of the Act is thus being separately fixed by the publication of the final list in the case of each estate.

Law of Property.—While in one part of the United Kingdom the relations of landlord and tenant were thus being modified, the law of property was the subject of large-scale legislation in another. The

changes made in England by the Law of Property Act of 1922 (sometimes called Lord Birkenhead's Act) were so vast and their statutory expression so obscure that it was felt undesirable to bring them into force until the law had been collated with earlier real property statutes and consolidated.[1] A committee, appointed by the Lord Chancellor (Lord Cave) and presided over by Mr. Justice Romer, advised both upon the appropriate date of operation and upon matters of draftsmanship. Its report to the Lord Chancellor (Lord Haldane) resulted in the postponement of the reforms till 1926 (c. 4) and an amending Act (c. 5) preliminary to the consolidation of the law. The amending Act had eleven operative sections, each with its own schedule. The first comprised the repeals, which resulted from the 1922 Act; the second amended that Act in details relating to the enfranchisement of copyholds and the conversion of perpetually renewable leaseholds (the two main portions of the 1922 Act which still survive, for, being transitional, there was no occasion to incorporate them in the consolidating measures passed in 1925), making provision for the custody of manorial documents, and saving the Crown manors as offices of profit the acceptance of which vacates a seat which a member of Parliament desires to resign. The next six schedules make amendments to facilitate the consolidation of the Act relating respectively to (*a*) conveyancing and the law of property, (*b*) settled land, (*c*) trustees, (*d*) the registration of pending actions, land charges, etc., (*e*) administration of estates, and (*f*) the registration of title to land. The ninth schedule was declaratory and explained how far various older enactments like the Inheritance Act of 1833 and the Wills Act of 1837 were affected by the 1922 Act. The tenth specifically repealed obsolete enactments, and the eleventh made amendments to facilitate the consolidation of the statute law relating to university and college estates, a subject upon which a committee had been at work under Lord Buckmaster. It fell to Lord Cave to introduce the seven resultant consolidating Acts (cc. 18–24), but this brief account, which has mentioned no fewer than four Lord Chancellors, shows the loyal continuity of the work accomplished. Naturally so great a task was not easy. Some of the older Acts are repealed more times than once, others once too many; the curious will find in the Expiring Laws Act (c. 76) the means by which the latter were reinstated. Altogether this law of property legislation, which does not so much make new law as present an orderly statement of the new law made in 1922, accounts for more than two-fifths of the bulk of the statutes of the session.

Labour.—The system of unemployment insurance based actuarially on contributions from the State, the employers and the employed, has failed to meet post-war conditions of bad trade. Alongside the standard benefit to which an insured workman becomes normally entitled by virtue of the contributions he has paid, there must be uncovenanted benefit, *i.e.* benefit granted in anticipation of the contributions which he has not yet been able to make because of the prolonged period of unemployment. Constant improvisations have been necessary to adapt the normal scheme to the abnormal situation, and yet another Unemployment Insurance Act (c. 69) was required in 1925 to finance the adjustment. At two rather controversial points it reverses the Labour Government's Act of the previous year. It makes the grant of uncovenanted benefit once more a matter of administrative discretion and

[1] Tables were published (Cmd. 2335) showing how the earlier enactments superseded by the consolidating Acts are therein reproduced or otherwise dealt with.

not a concession to which the workman is entitled as of right, and it restores the period of six days (instead of three) as the waiting period antecedent to the receipt of unemployment benefit.

The Mining Industry (Welfare Fund) Act (c. 80) extends till 1930 the payment of the levy of one penny per ton of output which the Mining Industry Act of 1920 imposed upon coal-owners. The levy goes to a fund devoted to the social well-being and recreation of the workers and to mining education and research. Two more members—one to represent the Mining Association, the other the Miners' Federation—are added to the committee which distributes the fund.

The adoption of certain international labour conventions will be described later.

Local Government. — Simplified machinery is provided (c. 11) for altering the number of borough councillors in England, and the Municipal Corporations Act of 1882 is amended (c. 54) so that no one in future shall be disqualified for membership of a borough council " by reason only that he is in holy orders or the regular minister of a dissenting congregation."

The Advertisements Regulation Act of 1907 gave local authorities power to make by-laws to control advertisement hoardings and structures and to restrict advertisements which might injure " the amenities of a public park or pleasure-promenade " or disfigure " the natural beauty of a landscape." This did not go far enough. The 1925 Act (c. 52) extends the power to advertisements which

> " disfigure or injuriously affect—
>
> (*a*) the view of rural scenery from a highway or railway, or from any public place or water ; or
>
> (*b*) the amenities of any village within the district of a rural district council ; or
>
> (*c*) the amenities of any historic or public building or monument or of any place frequented by the public solely or chiefly on account of its beauty or historic interest."

County councils can delegate their powers to district councils. There is an exception for railway stations, and the general success of the Act will depend on the scope allowed to by-laws by the Secretary of State, by whom (under the 1907 Act) by-laws must be confirmed.

Extended powers of local government are also given by the Public Health Act (c. 71). Like earlier Acts of similar name, it contains much that lies outside public health—for example, it gives power to make by-laws as to wireless telegraphy installations and to provide parking places for vehicles. The Act consists of nine parts. Part I contains the machinery for bringing the new law into operation, for this is not an Act of immediate, direct, and general application ; Parts II (streets and buildings), III (sanitary provisions), IV (verminous premises, etc.) and V (watercourses, streams, etc.) are adoptive and, before they can operate anywhere, require a resolution to that effect to be passed by the local authority. Part VI, which is not adoptive, extends powers as to public parks and pleasure-grounds which were contained in a similar Act of 1907, and applies wherever the 1907 provision is in force. Part VII, dealing with infectious diseases and hospitals, is also not adoptive. Nor is Part VIII, with its miscellaneous sections, which *inter alia* allow the provision of cricket and football grounds, the use of public offices for entertainments and—a clause attacked by the opponents of municipal trading—the establishment of cold storage and refrigerators. Part

VIII also contains sanitary sections (to prevent contamination of food intended for sale and to prohibit rag and bone dealers from selling food or toys), traffic sections (to restrain dangerous driving and the neglect of a policeman's directions, and to regulate hackney carriages at railway stations and require persons waiting to enter a tram or omnibus in the street to form up in queues), finance sections and roads and streets sections, including a requirement that all urban authorities shall prepare a list of the streets "repairable by the inhabitants at large"—*i.e.* by the urban authority. Part IX, the only part of the Act which extends to the county of London as well as to England, relates to the charges for public baths and wash-houses, and the closing of public swimming-baths during the winter and the use thereof (when closed) for other purposes at discretion upon such terms or conditions as is thought proper. Most of the new Act has already passed through the experimental stage, for it is the English habit to allow progressive municipalities and other local bodies to obtain local legislation in advance of the general law. As soon as these local precedents assume a standard pattern and are universally adopted by local bodies when seeking local Acts, the clauses are gathered up into a public general Act such as the Public Health Act of 1925.

Public Health and Medicine.—Among the provisions of the last-named Act which specially concern health there are restrictions on nuisances created by the occupiers of tents, vans, and sheds or similar structures, on offensive trades and on contact with the body of a person dying of infectious disease. There is power to cleanse, disinfect or destroy verminous articles, cleanse verminous persons (by consent or by order of the magistrates), provide cleansing stations and deal with verminous houses, the removal of wall-paper being specially mentioned; also to make a medical examination of the inmates of common lodging-houses on suspicion of dangerous infectious disease, to close lodging-houses on account of infection, to remove to a hospital persons suffering from pulmonary tuberculosis, to subscribe to voluntary hospitals which give facilities to the district, to arrange lectures or other forms of publicity as to health or disease, and to take any possible steps to prevent blindness. The 1925 Act marks a general advance; administratively a consolidation of public health law in England is now badly needed; the principal Act was passed fifty years ago, since which date the central and local authorities have been changed.

The ratification by Britain of the Opium Conventions agreed to at Geneva in February 1925 was the main reason for the Dangerous Drugs Act of that year (c. 74). Part I of the 1920 Act (regulating dealings in raw opium) is extended to coca leaves and Indian hemp. The application of Part III of the 1920 Act (which related to cocaine, morphine, etc.) is restated in the light of recent scientific classifications by experts at Geneva, and power is taken to declare by Order in Council the exclusion from Part III of any preparation containing a narcotic to which that Part at present applies if the experts are satisfied that the narcotic is one which does not cause drug addiction. The date of operation of the Act depends upon a future Order in Council.[1]

The principle long ago accepted by Parliament in the Sale of Food and Drugs Acts—that in the interests of health a commodity offered for sale should be of a certain standard—was extended in 1925 to certain thera-

[1] See the strange oversight in this respect disclosed in *R.* v. *Kynaston*, 19 Criminal Appeal Reports, p. 180.

peutic substances. Without standardization the medical profession cannot with confidence prescribe such substances, nor is it possible to obtain the information without biological tests. The Therapeutic Substances Act (c. 60) applies to vaccines, sera, toxins, antitoxins and antigens, salvarsan and analogous preparations, insulin and pituitary extracts; other substances may be added to the list by a joint committee consisting of the Minister of Health, the Secretary for Scotland and the Minister of Home Affairs for Northern Ireland after consulting an advisory committee representative of the principal medical and scientific bodies in the three countries. The Act prohibits manufacture except under licence (with a saving for the individual prescriptions of a doctor) and restricts importation save where equivalent tests have been applied or when the substances are imported for research. Standards of strength, quality and purity, tests and units of standardization are among the matters left to be prescribed by regulations of the joint committee. Regulations may also require the accepted scientific name, or some sufficiently descriptive name, to be stated on the label together with the date of manufacture, and may otherwise restrict the method of sale. The Act, for which foreign precedents could be cited from Norway, Sweden, France, Germany, Italy, Spain, Denmark (where such medicines must be prepared in State institutions only) and the United States, has a prospective and not an immediate operation.

Other Social Legislation.—The consolidations of English and Scottish housing and town-planning law and certain public health provisions have been mentioned above. The Mental Deficiency (Amendment) Act (c. 53) enables a defective to be removed from an institution and placed under guardianship when improved in health though not yet well enough to be liberated entirely. The Guardianship of Infants Act (c. 45) is in part a measure of sex equality. In legal proceedings over the custody of children or the administration of infants' property, courts are to regard the welfare of the infant as the first and paramount consideration and are not to consider the claims or rights of the father as superior to those of the mother or *vice versa*; either parent may appoint a guardian to act with the surviving parent on death; disputes between joint guardians may be taken to the courts for disposal. The High Court and County Court are no longer to be the only courts to decide such matters; courts of summary jurisdiction may also act, subject to limitations. New provision is made as to the consents necessary before an infant can marry; and, if anyone whose consent is necessary refuses to give it, the court may give an overriding consent—a form of jurisdiction, superseding that of the parents, which neither magistrates nor parents will in all cases welcome. Another change relates to orders for the custody of children. Previously the mother who considered that the children were being badly treated by their father had to leave her husband before she could apply for an order: this made application difficult for her and she was worse off if she left him and if her application then failed. She can now obtain her order though still residing with her husband, but it is not enforceable while she so resides. Married women are further helped by the Summary Jurisdiction (Separation and Maintenance) Act (c. 51), which extends the grounds on which separation and maintenance orders may be granted. The wife can now have her order on the ground of the husband's cruelty or neglect, even though his conduct has not yet caused her to leave him, but the order is not enforceable unless she does leave

him. Other grounds are his persistent cruelty to her children, or such conduct as is likely to result and has resulted in her submitting herself to prostitution, or further the fact that, while knowing himself to be suffering from a venereal disease, he insisted on having sexual intercourse with her. Conversely a married man may have an order on the ground of his wife's persistent cruelty to his children. The expression " habitual drunkard " in certain Acts is to include anyone who habitually takes or uses (except upon medical advice) opium or other dangerous drugs. As under the Guardianship of Infants Act, so also in this Act, anyone under an obligation to make payments under an order must notify any change of address. A married woman applying for a maintenance order may be given an interim order on adjournments pending a final decision.

Probably the most conspicuous measure of social legislation in Great Britain in 1925 was the Widows', Orphans' and Old-age Contributory Pensions Act (c. 70), which creates the following prospective benefits by what is largely an extension of the national health insurance system. If an insured man dies after January 4, 1926, his widow receives 10*s*. a week till she is seventy years old (at which point the previous Old Age Pensions Act applies) or remarries; she also receives an additional allowance for each child under the specified age, 5*s*. a week for the eldest or only child and 3*s*. for each other child; the specified age is fourteen or the age not exceeding sixteen up to which the child remains under full-time instruction in a day school. The orphan children of an insured man or an insured widow receive, while under the specified age, an orphan's pension of 10*s*. 6*d*. a week. After January 2, 1928, an insured man or insured woman who has attained the age of sixty-five but is not yet seventy, and the wife of an insured man if both she and her husband are between sixty-five and seventy, receive an extended contributory old-age pension of 10*s*. a week. Persons who, on reaching the age of seventy, pass from the contributory to the non-contributory old-age pension, receive their 10*s*. a week notwithstanding any statutory conditions under former Acts as to means, residence, or nationality; thus the thrift disqualification is removed. An insured person means someone insured under the National Health Insurance Act who has been insured in insurable employment for 104 weeks, has paid at least 104 contributions in all and an average of at least 26 contributions in the previous three years; those are the statutory conditions in respect of widows' and orphans' pensions. The statutory conditions for the contributory old-age pension stipulate for five years' previous insurance, 104 contributions and an average of 39 over the past three years, but these conditions may be mitigated. The arrangements by which the machinery of the 1925 Act is fitted into the working of health insurance and the consequential alterations made in the National Health and Unemployment Insurance Acts are necessarily intricate, but the broad features of the new Act—the contributory principle, the payment of contributions and the outline of the new widows', orphans' and old-age pensions and the amounts are—compressed into its first section with rare skill. The National Health Insurance Joint Committee is given a co-ordinating function; the Minister of Health is given the now usual power to remove difficulties which may arise in bringing the Act into operation; in 1935 and every tenth year thereafter the Government Actuary is to report to the Treasury on the financial working of the scheme, when contributions can be revised if necessary.

Superannuation.—The Fire Brigade Pensions Act (c. 47) arranges for

the retirement, pensions and allowances of professional firemen in England and Scotland—that is to say, those employed wholly and permanently on fire brigade duties under local authorities. Its general plan follows that of the Police Pensions Act of 1921, but the fireman must retire at sixty unless his service is specially extended in the interests of efficiency.

The Teachers (Superannuation) Act (c. 59) embodies most of the recommendations of Lord Emmott's Committee and provides for teachers in English schools after April 1, 1926. Previously there was the 1918 Act, framed on a non-contributory basis and thus upsetting the previous contributory arrangements; then came the Burnham Committee and the Burnham scales, to the great benefit of the teachers; then in 1920 came the Geddes Committee with its suggestions for economy; and in 1922 and 1924 came the Acts which reintroduced the system of contributions till April 1926. The 1925 Act seeks to attain some degree of permanence. It defines "contributory service," "qualifying service" and "recognized service," sets out the qualifications for the grant of superannuation allowances (with a special provision for married women), allows a system of short-service gratuities, provides death gratuities for the legal personal representatives of dead teachers, and guards against duplicate pensions. Full-time educational organizers are brought into the Act and "approved external service" may be recognized. The Board of Education may make schemes for extending the operation of the Act further. The necessary arrangements for contributions and finance are accompanied by directions for actuarial inquiries every seven years into the sufficiency of the contributions now made payable. The Education (Scotland) (Superannuation) Act (c. 55) tends to assimilate the position of teachers in Scotland to that of English teachers by way of a scheme to be framed by the Scottish Education Department and approved by Order in Council.[1] Scotland had followed England into a non-contributory system in 1918 and is now back on the contributory basis. As in the English Act, there is a direction for actuarial inquiry every seven years.

Trade and Merchant Shipping.—A Trade Facilities Act (c. 13) increases the maximum limit of the loans which may be guaranteed under the original Act of 1921 and extends the period for giving guarantees. The purpose of the loans is to create employment for British labour by promoting work which without this assistance would not have been undertaken.

The British Empire Exhibition (Guarantee) Act (c. 26) increases to £1,100,000 the Government guarantee against loss on the Wembley Exhibition, which was opened in 1924 and reopened in 1925. The original guarantee under the 1920 Act was £100,000.

A short Statutory Gas Companies (Electricity Supply Powers) Act (c. 44) enables a statutory gas company to obtain from the Electricity Commissioners a special order authorizing it to supply electricity. The company thus secures cheaply a concession not otherwise obtainable without the expense of promoting a special Act of Parliament.

The temporary power to increase canal charges (first conceded in 1919 at a time when canals were controlled by the State) is continued for another year (c. 2).

Three Conventions, made at Genoa and Geneva in 1920 and 1921, receive effect in the Merchant Shipping (International Labour Con-

[1] See S.R. & O. 1926 (No. 363), p. 449.

ventions) Act (c. 42). Under the first a seaman's wages are continued during unemployment due to shipwreck for a maximum period of six months from the date of the loss of his ship. The employer is not liable if he shows that the unemployment was not due to the wreck, and the seaman has no right to pay under the Act for any day if the employer can show that the man was able to obtain suitable employment on that day. The second Convention forbids the employment of a boy under eighteen as fireman or trimmer on board ship; there are exceptions, such as employment in an approved training-ship or in a vessel mainly propelled otherwise than by steam. Under the third Convention young persons under eighteen are not to be employed on ships in any capacity unless found fit on medical examination. Employment on a ship manned by members of the same family is an exception, and there is special provision (subject to safeguards) for employment in emergency. "Ship" is defined to mean any registered British ship and any British fishing-boat entered in the fishing-boat register, but not tugs, dredgers, barges or vessels "whose ordinary course of navigation does not extend beyond the seaward limits of the jurisdiction of the harbour authority of the port at which such vessel is regularly employed and so long as such vessel is engaged in her ordinary occupation." The Act may be applied by Order in Council to ships registered in British possessions (other than British India and the self-governing Dominions), protectorates and mandated territories.

Under the Merchant Shipping Act of 1894 it is possible to conclude agreements with foreign countries for the mutual recognition of regulations relating to the safety of ships where the foreign laws and regulations are substantially equivalent to our own. France having lately passed a law respecting wireless telegraphy on ships, the French Government offered a reciprocal arrangement, but no agreement could be made because the new French law differed appreciably from the British law, and because the British law required foreign vessels to comply strictly with British requirements while in United Kingdom ports. The Merchant Shipping (Equivalent Provisions) Act of 1925 (c. 37) meets this difficulty by permitting the exemption—under Order in Council—of foreign ships from any provisions of the Merchant Shipping Acts if the foreign ships are required by foreign law to comply with provisions substantially as effective as the British provisions applicable to foreign ships in United Kingdom ports and if the foreign country undertakes to give corresponding exemption to a British ship within that country's ports. The 1925 Act also gives power to exempt by Order in Council, while within United Kingdom ports, British ships registered outside the United Kingdom or ships registered in a port of a territory over which His Majesty exercises jurisdiction, if the law of the Oversea Dominion or territory is substantially the same as the corresponding provisions of the Merchant Shipping Acts.

Roads.—The Minister of Transport and local authorities in England and Scotland are empowered by the Roads Improvement Act (c. 68) to plant trees and shrubs and to lay out grass margins on any highway maintainable by him or them. The power to improve roads given to the Road Board by the Development and Road Improvement Funds Act of 1909 and since transferred to the Minister, is extended to cover tree-planting, the putting up of notices, milestones and signposts, the freeing of roads from tolls, and the prescription of building lines along roads.

The 1925 Act elsewhere elaborates the power of county councils and other highway authorities to prescribe building lines and thus to prevent new erections (other than boundary walls or fences) or permanent excavations nearer the centre of the road than the line prescribed. It also enables land to be acquired in order to compensate open spaces or commons for land taken away in making new roads across them; it provides for the removal of obstructions to the view of road-users at corners or bends of highways; and it authorizes the Minister to conduct experiments or trials in improved road construction and to test the effect of various classes of vehicles on various types of roads.

Rating. — In March of 1925 the Agricultural Rates Act of 1923 (lightening the burden of rates on agricultural land) was temporarily continued and provision was made for the Scilly Isles (c. 10). In December, after the Tithe Act (mentioned elsewhere) had altered in one respect the incidence of liability for rates, the long and complex Rating and Valuation Act (c. 90) introduced general changes in the machinery of the rating system in England. The Act retains in outline the old system of valuation, precepts, rates, assessments and appeals to quarter sessions; its aim is uniformity and simplicity. It eliminates the parish as the rating unit, thereby disestablishing the overseers. By taking county boroughs and urban or rural district councils as the rating authorities of the future, it reduces some 13,000 rural rating authorities to about 650; and it cuts down the number of urban rating authorities by about one-half. But though the parish disappears as the rating unit, the local knowledge gained by the parochial system is kept available by adding parish representatives to the rating authorities when the particular parish is being valued for rating purposes. The Act substitutes one "general" rate for the old poor and other rates, though in rural districts there may be a "special" rate as well. There is to be one "general rate fund" in each area. There is an endeavour to standardize the practice of assessment both within the same county and between one county and another. County valuation committees will promote uniformity by means of conferences. Their function is mainly persuasive, but they have a right to appear before assessment committees and on appeals before quarter sessions. The Central Valuation Committee, to be set up in London, will also have a co-ordinating effect, again acting mostly by persuasion; it will report to the Minister of Health and its report will be laid before Parliament. Valuation is regularized, for it is to be revised once every five years; deductions from gross value (to ascertain rateable value) are regularized, for they are prescribed in the second schedule to the Act. There is a concession to agriculture; the previous rateable value of agricultural land was only one-fourth of the corresponding value of other forms of property; this 75 per cent. deduction is now allowed for farm buildings as well as for the land with which they are connected. As to assessment the previous area was the union and the previous authority was the board of guardians or a committee thereof. The Act makes the county borough council the assessment authority in county boroughs; elsewhere county councils, after consulting boards of guardians, are to make schemes (to be approved by the Minister) for assessment areas consisting of one or more districts. Each assessment area will have an assessment committee. Like rating authorities, assessment authorities will be fewer and larger. And just as the parish does not lose its representation entirely in rating, so the board of guardians

is still represented in assessment. In county boroughs the assessment committees will be appointed by the county borough council; one-fourth of the members must be representatives of the guardians belonging to the union concerned, and one-fifth must be persons representing outside interests, neither councillors nor guardians. In other assessment areas the rating authorities, board of guardians and county councils are to be represented. Spending authorities are not encouraged to be assessing authorities; for this reason county councils play only a limited part in assessment. The ratepayer who quarrels with the value set upon his property for rating purposes can go before the assessment committee and object either to the draft valuation list or to the current valuation list. Amendments of the current list (after objection) are retrospective. There is, as formerly, an appeal to quarter sessions, but (except in boroughs where a recorder has jurisdiction) the tribunal will be a select committee of justices, the chairman being appointed annually and regard being had to his being qualified by judicial or other legal experience. In spite of protests from the bar, solicitors receive the right of audience in these quarter sessions appeals, but only where the amount does not exceed £100. The tribunal is deemed a standing committee of quarter sessions; it is not tied to the usual quarter sessions town, but may sit elsewhere to suit the parties' convenience. Other parts of the Act specify the particulars to be included on the rate demand note and permit rating authorities to allow a discount of 2½ per cent. for payments in advance. Rating authorities may employ valuers; rating and assessment committees may require returns from occupiers, owners and lessees. There are express provisions for recovering rates from tenants and lodgers in small houses, for rating owners instead of occupiers and for making owners some allowance in return for their collection of rates. This latter system of compounding is voluntary, but may in respect of certain low-valued property be made compulsory by resolution of the rating authority. An ancient controversy over the rating of machinery (differently solved in Scotland) is settled for England by rating standing machinery and plant (*i.e.* lighting and power, shafting, pipes, cables, lifts, etc.) as part of the hereditament, and exempting what may be called process machinery. To clear away inevitable doubts as to which category is appropriate for a particular type of machinery, a committee of five persons is to be set up by the Minister to report to Parliament upon the dividing line. If there is still a doubt whether machinery comes within the committee's report, the question can go to a referee selected from a panel nominated by the Lord Chief Justice.

Opportunity, it will be seen, was not taken to introduce one valuation for the dual purpose of rating and income-tax, or to shift to the national Exchequer the obligation to pay for services such as education, police, main roads and poor-law, which may be deemed of more than local concern. Railways were cut out of the scope of the Act during its passage through the House of Commons; London, too, is exempted from the Act. Owing to these and other changes the Bill reached the House of Lords in what the Lord Privy Seal has since described as a "foul condition of drafting," which the Upper Chamber did its best to remedy. In the circumstances the Act is a remarkable technical achievement. Two minor difficulties were met by leaving them to be dealt with by Order in Council [1]—namely the determination of the different dates at which the

[1] See S.R. & O. 1927, Nos. 55 and 90.

superseded enactments should be actually repealed, and the disposal of the odds and ends of parochial and other duties which previous generations had found it convenient to allot to the now abolished overseers.

A brief Valuation (Metropolis) Act (c. 40) is equally complicated. Pending the passing of permanent legislation, it was necessary in 1925 to provide for a new valuation list for the impending quinquennial valuation. In London there is the same valuation for national and local purposes, but the net value is ascertained in different ways. The interests of the national revenues demand the maintenance of a high gross value; the interests of the ratepayer demand considerable deductions. The difficulty was increased by the Rent Restriction Acts, under which certain rents were proportionately raised. The broad result of the 1925 Act is to leave the tenant's liability at the 1915 level in the case of houses with the lowest assessment, and to make small rises from the £30 house upwards.

Tithe.—The Tithe Act (c. 87), which had not been certified by the Speaker as a Money Bill within the meaning of the Parliament Act of 1911, effects several notable changes. First, the whole of the tithe rent charge attached to benefices is to be vested on March 31, 1927, in Queen Anne's Bounty (a corporate body of which more will be said below) in trust for the incumbents. Secondly, ecclesiastical tithe rent charge is to be redeemed and extinguished by means of a sinking fund. Thirdly, the parson is relieved of the invidious duty of dunning his parishioners for tithes or other payments in lieu of tithe: the Act brings to an end the direct relationship between the incumbent (as owner and collector of tithes) and the tithe-paying landowner with one minor and temporary exception. Fourthly, all tithe rent charge, whether ecclesiastical or lay, is to be stabilized and is no longer to fluctuate with the price of corn. The figure of tithe rent charge was based by the Tithe Commutation Act of 1836 on the periodical value of the quantities of wheat barley and oats purchaseable from time to time if one-third of £100 were expended in buying each of these three cereals. The figure stood as high as £112 in 1875 and as low as £66 in 1901. During the Great War the price of the cereals soared upwards, and, if the sliding-scale of 1836 had operated in 1922, the figure might have risen to £172, to the great benefit of the clergy and the increased grievance of the farmers. The Tithe Act of 1918 prevented this extremity by fixing the figure for seven years at £109 3*s.* 11*d.* Subsequent revaluation on the old basis would probably have given a figure of over £130. By way of compromise, and to avoid so sharp a rise, the 1925 Act stabilizes tithe at £105. The arrangements for redeeming ecclesiastical tithe rent charge are entrusted to Queen Anne's Bounty. For every £100 of ecclesiastical tithe rent charge the tithe-payer is to pay a total of £109 10*s.*; the parson will receive £100 of this, less the costs of collection; the Exchequer will take £5 as a contribution towards the rates assessed on the tithe, the liability for these rates having been transferred by the Act to the Inland Revenue; the balance of £4 10*s.* is carried to the 85-year sinking fund. In the case of ecclesiastical corporations—*i.e.* bishops, deans and chapters and a few minor bodies—the arrangement is modified, as the Inland Revenue gets £16 instead of £5 towards payment of rates. Queen Anne's Bounty, the corporation previously named, was created in 1704 to receive the first-fruits and tenths originally levied on all clerical incomes and paid to the Pope but subsequently made part of the Crown revenue by Henry VIII. The corporation has played a great part in increasing the maintenance of

the poor clergy and is well fitted for the new duties which the Tithe Act of 1925 imposes. It will have to collect a vast number of payments, great and small, all over the country; and for this purpose it is directed to divide the country into not more than 20 (actually 15) collection areas with a committee in each. It is to frame a scheme (to operate before April 1930) for apportioning between the benefices in each area the costs of collection and the deficiencies arising from arrears. Queen Anne's Bounty is not bound to sue for the recovery of outstanding payments if the corporation thinks legal proceedings undesirable in any particular case. Lay tithe is (as already stated) stabilized; the dates of payment are synchronized at April 1 and October 1; the terms for redemption of agricultural land are slightly altered. As lay tithe is not subject to redemption by sinking fund, the effect of stabilization may be acutely felt by lay tithe owners if in future centuries the purchasing value of money falls progressively.

Miscellaneous.—Among the remaining statutes of 1925 none affects the ordinary citizen so much as the Summer Time Act (c. 64). This makes permanent the temporary Act of 1922, but extends the summer-time period, which normally begins after the third Saturday in April, to the first Saturday in October, instead of to the third Saturday in September. When the third Saturday in April is the day before Easter, summer time begins a week earlier.

Another innovation—wireless telegraphy—involved fresh legislation. It was found, when a performance was transmitted by wireless broadcasting, that the listener-in could make a gramophone record by placing a recording instrument close to his loud speaker. This was a fraud upon artists who derive income from the sale of specially-made gramophone records of their voice or instrumental playing. It might have been dealt with by an extension of the Copyright Acts, but it was preferred to pass a separate Dramatic and Musical Performers' Protection Act (c. 46) penalizing the making of records without the performer's written consent, or the selling, hiring or public use of such records. The possession of plates or similar contrivances for the purpose of making these unauthorized records is prohibited under penalty of a £50 fine, and the court which tries the case may order the destruction or other disposal of any records, plates, etc., which offend against the Act.

The Wireless Telegraphy (Explanation) Act (c. 67) makes it clear that a licence is required for receiving wireless messages as distinct from sending them, thus settling a doubt as to the liability of the "crystal sets" of listeners-in. The Act also allows the Postmaster-General to charge a fee for experimenters' licences.

Under s. 18 of the Charitable Trusts Amendment Act of 1855 the three official trustees of charitable funds and their successors were given perpetual succession and were authorized to hold stocks, shares and securities which should devolve upon their successors without transfer or assignment. The limitation of this quasi-corporateness having been found inconvenient, they are created a body corporate for all purposes by an Act of 1925 (c. 27). A general statute on the status of Government departments and public bodies might be useful. Some are corporations aggregate, others corporations sole, others again are incorporated for a limited purpose only.[1]

The Mines (Working Facilities and Support) Act of 1923 had the

[1] See, for example, 14 and 15 Vict. c. 42, ss. 3, 27.

defect that, if the Railway and Canal Commissioners were prepared to grant facilities but had not yet decided the amount of compensation to be awarded, they could neither order a sum of money to be paid into court pending their decision nor order the payment out of money in court. An Act of 1925 of the same name (c. 91) provides the missing machinery for England and Scotland.

The Greenwich Hospital (Disused Burial Ground) Act (c. 58) allows the use of land for an extension of the Dreadnought Seamen's Hospital at Greenwich.

Certain war-time prohibitions—*e.g.* upon the transfer of ships to a foreign flag—were mitigated by a system of licences in respect of which Government departments took fees which the law-courts held to be illegal.[1] The War Charges (Validity) Act (c. 6), which reached the House of Lords with the Speaker's certificate that it was a Money Bill, validates these fees and a number of other charges in respect of war-time controls ; it should be studied with the Indemnity Act of 1920.

Another retrospective enactment protected Mr. William Preston against the consequences of his having, as a member of Parliament for Walsall, taken his seat and voted in eight divisions while his firm had a contract with the Postmaster-General. On becoming aware of his disqualification, he explained the position, stood again and was re-elected. An indemnifying Act saves him from pursuit by a common informer (c. 7).

Scotland.—Seven Acts of 1925 apply to Scotland only. One (regarding teachers' superannuation) has already been mentioned.

The National Library of Scotland Act (c. 73) establishes the great library of the Faculty of Advocates in Edinburgh as a national possession to be managed by a Board of Trustees and " held for public use to all posterity." The privilege of the Advocates' Library under the Copyright Act (of receiving copies of all new books) is transferred to the National Library, but the Faculty retains its collection of legal books and papers and its records, pictures and furniture.

The Education (Scotland) Act (c. 89) allows redundant voluntary schools to be closed within ten years if the Church authority concerned consents. To lessen travelling expenses the meetings of education authorities in certain counties are reduced in number. The respective duties of education authorities and school management committees under the 1918 Act are made clear. Travelling facilities for children may be provided without special regard to the parents' means if the cost would be less than that of either the building of a new school or the maintenance of an old one ; and there is fresh provision for the cost of maintenance (" with due regard to the religious persuasion of the parents ") and conveyance of children who are epileptic, crippled or defective or require special arrangements.

The Circuit Courts and Criminal Procedure (Scotland) Act (c. 81) allows the existing circuits of the High Court of Justiciary to be altered and new circuits to be formed by Act of Adjournal. Portions may thus be detached from the district of the High Court sitting at Edinburgh and transferred to adjoining circuits or *vice versa* : the number of Circuit Courts may be determined and the times and places at which they shall be held in each year. There is new provision for the statement of the charge and the swearing in of the jury by the clerk of the Court, and a

[1] See *Att.-Gen.* v. *Wilts United Dairies*, 38 Times L.R. p. 781 ; *Brocklebank* v. *The King*, [1925] 1 K.B. p. 52.

new procedure where an accused person pleads guilty before the date of the second diet after pleading not guilty at the first diet.

A Roads and Streets in Police Burghs (Scotland) Act of 1891 enabled the management and maintenance of roads in a police burgh to be transferred from the county council to the town council on terms either agreed or settled by the sheriff. Where any such transfer has been arranged in consideration of the payment of an annual sum, the annual payment may now be commuted into a capital sum on a prescribed basis (c. 82).

Under the Public Health (Scotland) Amendment Act (c. 75) Scottish local authorities obtain the power, already possessed for many years by similar bodies in England, to provide medicine and treatment for sufferers from diabetes.

Finally, the Church of Scotland (Property and Endowments) Act (c. 33) brings nearer the national ideal of Church union. Like the Tithe Act in England, with which it has much in common, it is the fruit of happy agreement in a field fertile in controversy. Part I of the Act deals with ministers' stipends which are payable out of the "teinds." Teinds originally corresponded to some extent to the English tithes, but the right to them passed from the Church into lay hands. Stipend is in future to be paid in money only and will no longer fluctuate with the price of victual. The standard value of victual stipend is fixed at a figure 5 per cent. above the fifty years former county average, and standardization is to operate from the next vacation of the benefice or earlier at the minister's election or on notification. The standardized stipend is to vest *de die in diem* in the minister, and the heritors are to pay it to the Church of Scotland General Trustees who were incorporated in 1921. Where the standard value of the stipend exigible from the teinds of a heritor's land is over £1, the amount is turned into a charge upon the land: where it is less than £1, it is to be redeemed compulsorily on an eighteen-year basis: if the liability for stipend does not exceed 1s., it is to be extinguished altogether. The churches, manses, glebes and churchyards which the heritors have been called upon from time to time to maintain and repair are now to be handed over to the Church, and Part II of the Act creates Scottish Ecclesiastical Commissioners to arrange for the transfer. The heritors' liability, which had frequently caused friction (as in the Cathcart case, where a minister demanded a new church at their expense), will now come to an end, except that the church and manse must be handed over in a reasonable state of tenantable repair. The supporters of the Act contemplate that, upon a closer Church union, church sites may be disposed of where in time past there has been an over-plantation of kirks. Lest the town councils should be aggrieved by parting with a site which the Church might afterwards sell at great profit, the Act directs that, before disposing of a burgh church or its site, the General Trustees shall give the town council an opportunity of acquiring it on terms and conditions to be determined in default of agreement by arbitration. Annual sums to the amount of some £20,000, charged under earlier Acts upon the Consolidated Fund for the augmentation of stipends or otherwise, are to be allocated by the General Trustees in accordance with schemes framed by the Commissioners. Other sections of this far-reaching statute provide for the transfer of parish churchyards to local authorities, for the protection of monuments and memorials to the dead, and for handing over to kirk sessions (or other similar bodies on the direction of the General Assembly

of the Church) the right of allocating sitting accommodation in parish churches.

Legislation otherwise than by Public General Act.—In the period covered by the foregoing summary 132 Local Acts were passed; there were no Private Acts. Three Church Assembly Measures received the Royal assent. One provides for the foundation of a bishopric of Leicester, another for the powers, duties and constitution of diocesan boards of finance; the third applies to future Church Assembly legislation the Interpretation Act of 1889 (except the definition of "parish" in s. 5) and other enactments containing general rules of construction; it also adds a list of abbreviated expressions useful for the draftsman, and provides for the commencement and proof of Measures as if they were Acts of Parliament.

In the sphere of departmental legislation 1461 Statutory Rules and Orders were registered in 1925. The annual volume, containing the text of those which were of public and general application, and which were still in force at the end of the year, includes the usual miscellany of rules and regulations essential for the operation and comprehension of statutes relating to education, foreign jurisdiction, Indian government and national health and unemployment insurance, as well as important sets of rules made under the new Law of Property Acts dealing with land charges, land registration, the extinction of manorial incidents, the statutory form of conditions of sale of land and statutory will forms. There are new Deeds of Arrangement Rules, new rules for institutions for the reception of lunatics in England, and the usual groups of rules of procedure in the various Courts, including a revised code of procedure before the Judicial Committee of the Privy Council.

2. ISLE OF MAN.

[It is hoped to publish this summary in the next *Review*.]

3. JERSEY.

[*Contributed by* E. T. Nicolle, Esq., *Vicomte of Jersey*.]

A law was passed by the States on February 12, 1925, and confirmed by an Order in Council dated April 8, 1925, granting to married women in Jersey the rights of a "feme sole."

This law provides: (1) That as from the date of its promulgation a woman on marriage will retain, notwithstanding the marriage, all her rights as a feme sole; (2) That a woman married before its promulgation shall be considered to be a feme sole as regards such personal estate, realty or interests as she may have acquired or to which she may have become entitled since the date of the said promulgation; (3) That a married woman, who is a minor, will not be *sui juris* until she attain her majority or has been declared to be of age by the Court and that in the meantime her estate shall remain vested in her guardian, who will have power to administer it.

4. NORTHERN IRELAND.

[*Contributed by* Sir Arthur Quekett.]

Session 1.

The fifth and last session of the first Parliament of Northern Ireland was opened by the Governor on March 10, 1925, and prorogued on

March 13, 1925. A dissolution of Parliament and a general election were impending at the time, and the purpose of the session was to deal only with such matters as required immediate consideration. Four measures were passed into law.

Education.—C. 1 was passed in order to end a long controversy as to the effect of those provisions of the Education Act (Northern Ireland), 1923,[1] which have reference to voluntary religious instruction in the elementary schools provided by the local Education Authorities or transferred to them by the former managers. The amending Act makes express provision for enabling the School Committees (which are entrusted with the local management of schools and contain representatives of the parents, teachers and transferring parties) to advise the Education Authority concerning the appointment of teachers for those schools; the actual appointment of the teachers remains with the Education Authority. C. 1 also repeals two provisions in the Act of 1923 which had given rise in certain quarters to an impression that the Act endangered the status of the voluntary religious element in the scheme of public elementary education.

Finance.—C. 2 forms one of a series of enactments for extending the authority which was given to the Ministry of Finance by the Loans Guarantee Act (Northern Ireland), 1922,[2] to guarantee the repayment of loans to be applied for the carrying out of capital undertakings calculated to promote employment.

C. 3 extends the limit upon the amount of the Exchequer advances to the unemployment fund.

C. 4 relates to supply and appropriation.

Local Legislation.—Two local Bills were presented and read a first time in the House of Commons in this session. Following the course of procedure adopted at Westminster when a dissolution takes place, it was resolved by the House that the promoters of these Bills should have leave to introduce them in the then next session of Parliament, and that the proceedings on the Bills in the next session should be *pro formâ* only in regard to the stage through which the same had passed in the session then in progress.

Session 2.

As a result of the general election, the party led by Sir James Craig was returned to the second Parliament of Northern Ireland with a majority, and the *personnel* of the administration underwent little change.

The first session of the new Parliament was opened by the Governor on April 14, 1925, and was brought to a close by prorogation on December 22, 1925. Thirty-three Acts were passed, including two local Acts and an Act for confirming a provisional order. Some of these are not dealt with in this Summary because they relate to supply and appropriation or to minor matters of purely local interest or of an administrative character.

Rent Control.—The Increase of Rent and Mortgage Interest (Restrictions) Act of 1920, as passed by the Parliament of the United Kingdom, applied to Ireland, and therefore formed part of the heritage of existing law which by virtue of the Government of Ireland Act, 1920, remains in force in Northern Ireland, subject to the powers of the local

[1] See *Journal of Comparative Legislation*, Third Series vol. vii, pt. ii, p. 17.
[2] *Ibid.*, vol. vi, pt. ii, p. 19.

Parliament to repeal or alter it. S. 13 of the Rent Act, which related to business premises, was limited in its duration to June 24, 1921—a date subsequent to the assumption of legislative power by the Parliament of Northern Ireland—and was allowed by that Parliament to expire. The date for the expiry of the main provisions of the Act of 1920, which restrict the rent of certain classes of dwelling-houses, and the interest payable upon mortgages of property belonging to those classes, was originally fixed by the Act for June 24, 1923. These provisions were continued in force *simpliciter* by enactments passed by the Parliament of Northern Ireland in the years 1923 and 1924,[1] and in the session under review they were amended and further prolonged in duration by the Rent and Mortgage Interest Restrictions Act (Northern Ireland), 1925 (c. 12).

This Act provides for the decontrol of rents by stages according to the rateable value of the dwelling-houses: decontrol takes place for houses of rateable value exceeding £52 on November 1, 1926; for houses of rateable value exceeding £26 on May 1, 1928; and for all other houses within the Act of 1920 on May 1, 1930. The restrictions on calling in mortgages are removed on the same principle, so that where a house is released from control a mortgage affecting it is also released.

The Act provides that all houses which come into the actual possession of the landlord (except those having a rateable value less than £8) thereupon cease to be controlled; and it contains what is known as the "contracting out" provision, which is applied only to houses of a higher rateable value than £26.

The increase of rent payable in respect of repairs is reduced from 25 per cent. to 15 per cent. of the net rent.

The Act re-enacts, with modifications, s. 5 of the Act of 1920, and follows (with slight alterations) the corresponding section of the Act passed for Great Britain in the year 1923.[2] The "one-house owner" is allowed, on giving six months' notice, to recover possession if he became owner before May 1, 1923; and his right (under the Act of 1920) of recovering possession on proof of the existence of alternative accommodation and greater hardship is continued.

A power is given to the County Court to rectify a mistake in a notice of increase of rent, and the Act prohibits proceedings by the tenant to recover from the landlord an increase paid by the tenant in respect of which no notice has been served, but which is otherwise permitted by the Act of 1920.

A period of six months is fixed by way of limitation upon the recovery by a landlord of arrears of increase made good by a County Court order, and also upon the recovery by a tenant or mortgagor of excess payments The Act follows s. 5 of the Act for Great Britain in suspending the increase of rent on the ground of disrepair.

There will also be found in the Act: (*a*) minor amendments transferring from the medical officer to the Sanitary Authority the power of giving certificates under s. 2 of the Act of 1920, and enabling committees to be appointed by Sanitary Authorities; (*b*) the provisions appearing in s. 18 of the Act for Great Britain (in relation to certificates of Sanitary Authorities for specifying what works require to be executed), and the definition as to repairs which is contained in that section; (*c*) a provision

[1] 13 & 14 Geo. V, c. 16 & c. 25; 14 & 15 Geo. V, c. 23.
[2] Rent and Mortgage Interest (Restrictions) Act, 1923 (13 & 14 Geo. V, c. 32).

imposing upon the landlord a definite responsibility for the whole of the repairs of a dwelling-house, where he has taken the 25 per cent. increase of rent.

The Act follows the provisions of s. 11 (1) of the Act for Great Britain in giving to the County Court a power to determine questions as to the standard rent, etc. A provision was also inserted in order to avoid the difficulty caused by a judicial decision (*Dundaoghaire* [*Kingstown*] *District Council* v. *Moran*, [1921] 2 I.R. 404) that a question under the Act of 1920, which arose incidentally in a case outside that Act, could be decided by the Court before which the case came, but that the proceedings in that Court had to be suspended till a decision of the County Court under the Act of 1920 had been taken on the question.

Housing.—C. 13 forms one of a series of enactments for continuing or extending the "housing subsidy" provided by the Housing Act (Northern Ireland), 1923.[1] C. 13, in the first place, amends the Act of 1923 by making the Government grant of £60 for the construction of houses available in any part of a Rural District, thus removing its previous restriction to such parts of Rural Districts as are within 1½ miles from an urban area or are "industrial" in character. The Act enables this grant to be made at the rate of £80, where the houses are completed within six months of their commencement. Moreover, it introduces a new provision under which houses which qualify for the Government grant may be exempted by the Local Authority from local rates for a period not exceeding 10 years after completion.

Pharmacy and Poisons.—The Pharmacy and Poisons Act (c. 8) had for its primary object the establishment of a Pharmaceutical Society for Northern Ireland, possessing powers to regulate the qualifications of pharmaceutical chemists, druggists, assistants and apprentices, and the keeping, dispensing and selling of poisons, similar to the powers which the Pharmaceutical Society of Ireland exercised over Ireland as a whole before the passing of the Government of Ireland Act, 1920. The regulating powers of the latter Society were exercised subject to the approval of the Lord-Lieutenant in Council, and it became necessary, owing to the setting up of a separate Government for Northern Ireland, to establish a separate Pharmaceutical Society within the jurisdiction of that Government, and to establish separate registers of pharmaceutical chemists, druggists, etc.

The Act gives, to persons whose names appeared in the Irish Registers in existence at the time of its passing, the right to be registered in the corresponding Northern Ireland Registers. It does not, however, contain any provision enabling persons to qualify in future as chemists and druggists or druggists, and thus there will eventually be in Northern Ireland a single grade of practitioners in pharmacy—the grade of pharmaceutical chemist. Opportunity was taken in the passing of the Act to consolidate and revise the previous Irish enactments—*i.e.* the Pharmacy Act (Ireland), 1875, and the Pharmacy Act (Ireland), 1875, Amendment Act, 1890—and to make some amendments in the law as to the sale of poisons.

The following features of this Act may be specially mentioned: (*a*) The regulations of the Pharmaceutical Society require the approval of the Minister of Home Affairs; they must be laid before both Houses of Parliament and may be annulled by the Governor in Council on

[1] See *Journal of Comparative Legislation*, Third Series, vol. vii, pt. ii, p. 20.

presentation of an address by either House. (*b*) The Registers of chemists, etc., are kept by a Government Registrar, and a Government Inspector is appointed for the purposes of the Act. (*c*) An annual licence is required to enable a person to carry on business in Northern Ireland as a pharmaceutical chemist, chemist and druggist or druggist, and a fee is payable for the licence. (*d*) In connexion with the sale of poisons, the Act supplies a definition of the expression " sale by wholesale " (see s. 16 (3)). (*e*) A new poisons schedule is introduced in order to replace the list of poisons contained in the Poisons (Ireland) Act, 1870, the revision of which was long overdue.

Land Drainage.—In Ireland, by reason of geographical conditions, the problem of " arterial " land drainage has always occupied an important position; and of the making of reports and Blue Books there has been no end. The full force of local opinion came into play in Northern Ireland in the session of 1925, when this problem was forced upon the notice of the Government as the result of the exceptional rainfall of three successive years, and the consequent damage caused to farmers' crops and stocks. The flooding of the country surrounding Lough Neagh, the outlet for whose waters is the lower River Bann, constitutes a distinct problem in itself, and one upon which the Government did not attempt to legislate in this session. Nevertheless, pending a special report upon the Bann area, they introduced and passed into law the Drainage Act (Northern Ireland) (c. 24), which gives to each County Council, within its own area, considerable powers in relation to land drainage. The new Act supersedes two voluminous but obsolete sets of statutes, of which the main purpose was the establishment of local drainage boards or committees to carry out schemes of district drainage, and to levy a rate on the improved lands. At the time of the introduction of the new measure there still remained in Northern Ireland ten of these local bodies; but, with the exception of the Lough and River Erne and Lough Neagh Boards, they had in practice ceased to function.

Part I of c. 24 confers upon County Councils a power to undertake schemes for draining lands which are liable to be flooded or injured by water, or whose drainage is capable of being improved. These schemes are to contain all necessary provisions for making them effective, and, when confirmed by the Ministry of Home Affairs, they achieve full statutory effect. This Part of the Act also enables County Councils to insist upon the scouring out of watercourses running through agricultural lands; this work is to be performed by the person upon whom the liability rests at law, and in his default the County Council may perform it at his expense.

Part II makes provision for the transfer to County Councils of the business of the defunct drainage boards and committees mentioned above, and for the winding up of that business where any required drainage work can be better carried out by means of a County Council scheme.

Part III provides that the Drainage Boards for the Lough and River Erne and Lough Neagh may obtain, by means of schemes submitted to the Ministry of Finance, any minor extension or modification of their existing statutory powers which they may require in order to enable them to carry on the existing undertakings for which they are responsible. Before preparing and submitting such a scheme, the Drainage Board must consult the County Councils of the area affected.

Part IV makes provision for a central administration in land drainage

matters. It sets up an Advisory Committee, thus following, to some extent, a recommendation made in the Report of the Arterial Drainage Commission (Ireland), 1905,[1] that there should be a Drainage Department in order to "bring into harmonious working the various schemes of drainage and secure, as far as possible, the uniform treatment of drainage problems." This Advisory Committee consists partly of officials and partly of representatives of County Councils and of interests affected by drainage schemes. The Ministry of Home Affairs and the Ministry of Finance are required by the Act to consult the Advisory Committee before confirming any scheme. The Committee is also available to give advice upon general drainage questions in their relation to the various interests affected.

Part V is of a supplemental character, and includes provisions for the protection of fisheries and other rights or interests likely to be affected by schemes for carrying out drainage works.

Public Health.—C. 1 enables the Ministry of Home Affairs to make regulations for the prevention of danger arising to public health from the preparation, storage and distribution of milk. In particular, it enables regulations to be made as to the distribution of dried or condensed milk in tins and other receptacles, and for prescribing the minimum percentage of milk fat and milk solids in such milks. The Act is similar to s. 8 of the Milk and Dairies (Amendment) Act, 1922, which was passed for Great Britain.

Widows', Orphans' and Old Age Pensions.—The Widows', Orphans' and Old Age Contributory Pensions Act (c. 23) provides: (*a*) pensions for widows and dependent children; and (*b*) old age pensions commencing at the age of sixty-five and passing, on the attainment of the age of seventy, into pensions under the Old Age Pensions Acts, freed from the restrictions formerly applied.

The pension scheme is established on a contributory and compulsory basis, interlocked with Health Insurance. The beneficiaries are the survivors of members of the working population insured for Health Insurance. Arrangements are made by the Act for the inclusion in the new pension scheme of persons holding certificates exempting them from Health Insurance, or who are excepted from Health Insurance, where their circumstances are such that their inclusion in the scheme would be desirable. Special provision is made for widows and children of insured men who, having died before the inception of the scheme, cannot contribute under it, and also for insured persons attaining the age of seventy before the date on which old age pensions begin to be payable under the scheme. The Act is similar to the measure applicable for England, Scotland and Wales which passed in the same year (15 & 16 Geo. V, c. 70).

The Act provides for the setting up of pensions accounts, and for contributions thereto out of moneys voted by Parliament, in the same manner as is provided by the British Act. The central administration of the scheme is carried out by the Ministry of Labour for Northern Ireland; but a special provision (s. 32) was inserted in order to enable some of the powers of that Ministry to be exercised by the National Health Insurance Joint Committee, if arrangements for that purpose are agreed to between the two Governments. It is also possible, under parallel provisions of the British and Northern Ireland Acts, for reciprocal

[1] Cd. 3374, 1907, para. 22.

arrangements to be made in regard to the insurance and pensions of persons moving between different parts of the United Kingdom; and the British Act provides that, if such arrangements are made, Northern Ireland is to have a representative on the National Health Insurance Joint Committee for the purposes of that Act.

The Old Age Pensions Acts are amended by c. 20 in such a manner as to modify the "thrift disqualification" by enabling any sum up to £39, derived from any source other than earnings, to be excluded from the calculation of yearly means for the purposes of a pension. This amendment of the law is parallel to that which was carried out for Great Britain in 1924 (14 & 15 Geo. V, c. 33). C. 20 also strengthens the provisions against false statements, by extending the time within which prosecutions for such offences may be brought.

Education.—C. 14 enables the Council of any County Borough to place sums derived from local rates at the disposal of the Queen's University of Belfast, to be applied for any educational purpose which the Council may consider will benefit their area. This enactment makes an addition to the powers which these Councils have under Part IV of the Education Act (Northern Ireland), 1923, which enables them to supply or aid the supply of higher education, and also to assist attendance at a University by means of scholarships, payment of fees or otherwise.

C. 27 supplements the Act of 1923 so far as it relates to the powers of local Education Authorities to borrow money upon the security of local rates. In the first place, the Act gives to Education Authorities the same borrowing powers for education purposes as they have for general purposes of local government, but freed from the statutory limitations upon the total debt of a County Borough or County. It also enables an Education Authority to borrow money, in order to make contributions towards the cost of permanent works undertaken by voluntary educational bodies, thus extending the powers which the Education Authority already have of borrowing for such works when undertaken by themselves. Provision is at the same time made for temporary borrowing by way of bank overdraft to meet current expenses. The Act constitutes the Ministry of Education as the sanctioning authority for all borrowing under the Act of 1923.

Census.—The last census, prior to the year 1925, of the population of the area of which Northern Ireland consists was taken in the year 1911, under the authority of the Census (Ireland) Act, 1910. It was originally intended that a census of Ireland should be taken in the year 1921, and an Act for that purpose was passed in the previous year. The Act of 1920 was confined to authorizing a particular census for the following year, and in that respect differed from the parallel provision for Great Britain (10 & 11 Geo. V, c. 31), which enables His Majesty in Council to direct the taking of a census at intervals of time not less than five years. No doubt the impending changes in the constitution of Ireland, as well as the disturbed condition of that country, rendered it at that time inopportune to introduce a permanent Census Act. The latter consideration eventually led to the abandonment of the Irish census for the year 1921, its postponement being effected by the Lord-Lieutenant in pursuance of an Order in Council made under the Restoration of Order in Ireland Act, 1920.

The question of a census for Northern Ireland naturally presented

itself after the separate administration had been set up. In particular, the absence of recent statistics as to population soon caused inconvenience in matters of local government, and a temporary expedient was adopted by the Legislature in the Local Government Act (Northern Ireland), 1923, which contained a provision enabling the Ministry of Home Affairs, pending the giving of authority for a new census, to ascertain the population of an area, if required in connexion with the proposed constitution of a new Town or Urban District. Ultimately, the Census Act (Northern Ireland) (c. 21) was passed, to authorize the taking of a census on April 18 of the following year—a proceeding which was duly carried out. The Act made provision for the census work to be done by the Registrar-General under the superintendence of the Ministry of Finance. The Act follows the previous Irish Census Acts in authorizing a particular census only, but it departs from those precedents in laying upon householders and other persons a definite obligation to make returns instead of leaving the entire onus upon the enumerators, and in enacting in detail the particulars required to be returned. The police were designated as enumerators, following the former practice. S. 11 of the Act is a permanent provision, which authorizes the Registrar-General to collect and publish any available statistical information, pending the taking of the next census for the time being.

Dangerous Drugs.—C. 16 assimilated the law in Northern Ireland to the law in force in Great Britain in relation to dangerous drugs, in order that His Majesty's Government might be in a position to ratify the Geneva Convention for the whole of Great Britain and Northern Ireland. Immediately before the adjournment of the United Kingdom Parliament in August 1925, a Dangerous Drugs Act was passed in order to amend the Dangerous Drugs Acts, 1920 and 1923, for the purpose of enabling effect to be given to the Geneva Convention. This Act made changes and additions to the law in relation to opium and certain other dangerous drugs; but it was not made applicable in Northern Ireland, except so far as it relates to matters outside the jurisdiction of the Northern Ireland Parliament. Accordingly, c. 16 was passed by the latter Parliament at the request of the Imperial Government, and its provisions correspond to so much of the Imperial Act as is not applicable in Northern Ireland.

Unemployment Insurance.—The several measures which deal with this subject were directed towards maintaining unemployment benefit in Northern Ireland at the same standard as exists in Great Britain. C. 22 is parallel to the Act 15 and 16 Geo. V, c. 69, passed for Great Britain. The Act continues the power of the Ministry of Labour to waive compliance with the first statutory condition for benefit (*i.e.* the number of contributions required to have been paid). It increases the waiting period, which is required to elapse before unemployment benefit is payable, from three days to one week. It amends the weekly rates of contributions, both in the case of the contributions of employers and employed, and in the case of Exchequer contributions. The Act for Great Britain became law on August 7 and the Northern Ireland Act on November 10; but the Parliament of Northern Ireland, in order to preserve uniformity of administration, passed a provision (c. 11) whilst the British Bill was still in progress, empowering the Governor in Council to put in force in Northern Ireland for a limited period changes of law similar to those which were embodied in the British Bill. C. 15 and c. 26

further extended the limit upon the amount of Exchequer advances to the unemployment fund.

Intoxicating Liquor. — C. 29 amends the Intoxicating Liquor Act (Northern Ireland), 1923, by increasing the maximum rates for the compensation levy charged upon holders of liquor licences, and provides that the licence duty and compensation charge may be paid in two moieties in cases where the total amount is £20 or upwards.

Publication of Statutory Rules and Orders.—The Rules Publication Act, 1893, came within the class of existing laws whose continuance in Northern Ireland was provided for in general terms by the Government of Ireland Act, 1920. Ss. 1 and 2 of the Act of 1893 appear to have owed their origin to complaints that Government Departments made their rules privately without sufficient communication with the persons interested. Accordingly s. 1 required that, at least forty days before making any statutory rules, notice of the proposal to make the rules, and of the place where copies of the draft rules may be obtained, should be published in the Gazette; and it declared that during those forty days public bodies should be entitled to obtain copies of the draft rules and might make recommendations or suggestions, which were to be taken into consideration by the rule-making authority before finally settling the rules. S. 2, at the same time, gave to the rule-making authority power to bring rules into immediate operation, on account of urgency, as provisional rules. S. 3 of the Act arose, it is understood, from complaints that frequently there was no notice or publication of statutory rules until they had actually come into force, and it remedied this grievance by enacting that all statutory rules should be sent to the Government printer, and be numbered and (subject to certain exceptions) printed and placed on sale by him. This Act still applies in Northern Ireland to the exercise of rule-making powers in "excepted" or "reserved" matters—as, for instance, in the case of rules of the Supreme Court of Judicature of Northern Ireland. It was found, however, impossible to place a satisfactory construction upon the Act in its relation to the new Government Departments established in Northern Ireland, and it was superseded by a separate measure, the Rules Publication Act (Northern Ireland) (c. 6).

The object of this Act is to establish a system similar to that established by s. 3 of the Act of 1893, so as to ensure that every exercise of a rule-making power by a Government authority shall be subject to publication at the time of exercise, and shall be subsequently classified in an annual volume. The system of preliminary publication set up by ss. 1 and 2 of the Act of 1893 was discarded as not being satisfactory.

The Northern Ireland Act contains certain provisions which may be specially noted. The regulations dealing with publication and classification of rules are set out in the Act, and not left to be framed by a regulating authority; the regulating and deciding authority for the purposes of the Act consists of the Ministry of Finance, acting with the concurrence of the Lord Chief Justice of Northern Ireland and the Speakers of the Senate and of the House of Commons of Northern Ireland; the Ministry can, by regulation, include within the Act certain non-Governmental authorities, *e.g.* authorities having power to make statutory rules relating to the qualification or conduct of members of a profession of which such authority is representative; the Ministry may prescribe cases in which the exercise of a statutory power shall be exempted from

the Act, and cases in which rules are to be held to come within the Act, although made in the exercise of a non-statutory rule-making power; the Act enables every authority brought within its scope to make use of the convenient method of proving rules which is supplied by the Documentary Evidence Acts.

Opportunity was taken at the same time to meet a difficulty which inevitably arises where a Parliament does not remain for a long period in continuous session. Various provisions require that rules shall be laid before either or both of the Houses of Parliament for a specified period. This period varies from ten to forty—and possibly more—days, and in some cases the days are required to be sitting days of the House. In recent Northern Ireland legislation, ten sitting days has been chosen. These provisions have been found in practice to delay unduly the taking of action upon, or coming into operation of, important rules. S. 4 of c. 6 enables the statutory requirements to be satisfied where five sitting days, comprised within a minimum period of ten days in one or more session, have elapsed.

C. 6 also deals with the special case of the National Health Insurance Joint Committee, a body which consists of the Minister of Health, the Secretary for Scotland and the Minister of Labour for Northern Ireland, together with a representative for Wales. Seeing that the procedure laid down in ss. 1 and 2 of the Rules Publication Act, 1923, has to be complied with by the Joint Committee when operating as respects Great Britain, it would be inconvenient that a different procedure should have to be complied with by them as respects Northern Ireland. Accordingly, the Northern Ireland Act keeps those sections of the Act of 1893 alive in connexion with the making by the Joint Committee of regulations, orders or schemes, which do not relate solely to Northern Ireland.

Constitutional and Administrative Matters.—The County Officers and Courts Act (c. 5) is concerned mainly with the establishment of a general County Court service in Northern Ireland, instead of separate official staffs located in each County. The Clerk of the Crown and Peace continues to exercise his functions as the chief County Court officer for a particular County, but becomes eligible for transfer to any other County. The clerical assistants employed in the various Crown and Peace offices cease to be the personal employees of the Clerk of the Crown and Peace, and are to be selected and employed directly by the State and to be transferable from one County to another. Thus each Crown and Peace office, instead of being a self-contained and independent unit, becomes a County branch of a general service. Employment in this service is to be, as a rule, permanent and pensionable, and subject to conditions analogous to those which are in force in the Civil Service. Clerks of the Crown and Peace holding office at the date of the passing of the Act (whose rights were safeguarded by the Government of Ireland Act) are excluded from the new service, whilst certain other classes of officers existing at that date are made admissible under special conditions. The Act contains also some minor amendments of the law relating to County Court matters.

The Administrative Provisions Act (c. 3) deals with various points of departmental difficulty which arose in the course of administration. S. 3, however, may be mentioned as possibly being of some general interest. This enactment is intended to simplify the drafting of mortgage deeds, where money is lent by the Government to Local Authorities on

the security of local rates; it provides that deeds made in a particular form are to have effect so as to imply various covenants and agreements, as to the issue and repayment of loans, which are of general application but which, apart from this enactment, would have to be repeated at length in each deed of mortgage.

The Civil Pensions Act (c. 2) makes provision on a modest scale for a system similar to the system of Civil List Pensions, and empowers the Minister of Finance to grant pensions and gratuities on account of meritorious public services rendered by persons either in non-pensionable public offices in Northern Ireland or to the cause of science, literature, the fine arts or social work and progress in Northern Ireland. The pensions are to be a charge upon moneys voted by Parliament.

Finance.—Part I of the Government Loans and Exchequer Provisions Act (c. 17) makes an important departure in the financial procedure of Northern Ireland. Before the passing of the Government of Ireland Act, 1920, Government loans to Local Authorities were made by the Commissioners of Public Works in Ireland out of the Local Loans Fund, but s. 20 of that Act enacted that money for local loans in Northern Ireland should cease to be advanced out of that Fund. It was at first contemplated that the money raised by the issue of Ulster Savings Certificates (under the authority of 12 & 13 Geo. V, c. 3) could be utilized for local loans. That money, however, was not placed in a separate fund, but, when raised, became part of the Exchequer and was in the main utilized for other urgent Government advances.

It thus became necessary to create a special fund for local loan issues, and this was done by Part I of c. 17, which conforms to the principles laid down by the National Debt and Local Loans Act, 1887. Government loans to local authorities, and also certain other classes of Government loans, are, under the new Act, to be issued out of a special fund, which is to take the place of the Exchequer in cases where such loans were formerly issued from the latter source. This fund is called the Government Loans Fund; is placed under the control of the Ministry of Finance; and is to be kept up by means of the issue of a Government Stock called "Ulster Loans Stock." The Ulster Loans Stock must be redeemed after fifty years from its issue, but may be redeemed by the Government at any shorter date within that period; the rate of dividend is to be prescribed by the Ministry of Finance. The Government Loans Fund was made liable by the Act, in the first place, to reimburse the Exchequer in respect of various loans previously made, and is to receive all sums outstanding in respect of loans previously issued and all sums repayable in respect of future loans. Issues in respect of Government loans are to be subject to the authority of an annual Act of Parliament, similar to the annual Public Works Loans Acts which control the British Local Loans Fund.

Part II of c. 17 amends the law as to the Northern Ireland Exchequer and financial system in certain details, where such amendment was found necessary in the course of administration.

The Finance (Estate Duty) Act (c. 9) effected, as respects Northern Ireland, an increase in the rates of Estate Duty, according to the same scale as the rates which came into operation in Great Britain under s. 22 of 15 & 16 Geo. V, c. 36. The Northern Ireland statute received the Royal Assent in advance of the British Act, but was expressed to

come into operation upon the date on and from which the new scale might happen to take effect in Great Britain.

C. 30, which was the "budget" measure of the session, imposes substantial increases in the rates of the Excise Licence Duties in respect of certain types of mechanically propelled vehicles used as hackney carriages or for trade purposes. This Act contains a provision following s. 24 of the Finance Act for the United Kingdom (15 & 16 Geo. V, c. 36), the object of which is to give a clear definition of the phrase "arising," where it occurs in connexion with Succession Duty. The meaning of the phrase had previously come up for consideration in various cases, including *Lord Advocate* v. *Macalister* ([1924] A.C. 586).

5. IRISH FREE STATE (SAORSTÁT EIREANN).

[*Contributed by the* Hon. Mr. Justice Hanna, *Judge of the High Court.*]

The legislative output for the year 1925 was reduced to 42 Acts. Save a few of general unimportance, they are summarized under appropriate headings below.

Constitutional.—Some important changes were made affecting parliamentary and constitutional matters.

By Act No. 29 the allowance payable to members of the Oireachtas under s. 2 of No. 18 (1923),[1] Payment of Members Act, is exempted from income-tax and the provision is made retrospective. By s. 2 of the Act it is enacted that there should be no suspension or abatement of pension by reason of the pensioner being in receipt of an allowance in respect of being a member of the Oireachtas.

By Act No. 30, Constitution (Amendment No. 1), alterations are made to fix the date from which the term of office of senators is to be reckoned, and the limits of time within which the Senate triennial elections may be held. This was done by supplementing Arts. 31, 32 and 34 of the Constitution. Art. 31 provided that, subject to any provision of the constitution of the first Senate, the term of office of a senator should be twelve years. This is supplemented by a new article, 31a. It enacts that the duration of the term of a member of the first Senate shall run from the date upon which the Constitution came into operation and the duration of senators, elected subsequently, under Art. 32, shall be calculated from the appropriate triennial anniversary. Art. 32 provided that one-fourth of the Senate should be elected every three years. S. 2 of the Act supplements Art. 32 by Art. 32a to the effect that the triennial election of one-fourth of the senators shall be held not more than three months before nor more than three months after the conclusion of the triennial period. A further slight amendment is made with reference to Art. 34 of the Constitution as to re-electing senators co-opted to fill vacancies during any triennial period.

The Treaty (Confirmation of Amending Agreement) Act (No. 40) makes important changes in Arts. 5 and 12 of the Treaty of 1921 and adds some ancillary provisions. As is well known among constitutional lawyers, Art. 12 of that Treaty had made provision as to the settlement of the boundary between the Saorstát and Northern Ireland by a Boundary Commission. The events leading to the termination of that Com-

[1] See *Journal of Comparative Legislation*, Third Series, vol. viii, pt. ii, p. 21.

mission are now matters of political history. As a result, the three Governments concerned, Great Britain, Saorstát Eireann and Northern Ireland entered into an agreement supplementary to that of December 6, 1921. The new agreement was entered into on December 3, 1925, and by para. 1 revokes the provisions of the 12th section of the Treaty of 1921 as to the boundary, and ratifies the territorial limits fixed for Northern Ireland by the Government of Ireland Act, 1920. Para. 2 releases the Saorstát from the obligations of Art. 5 of the Treaty of 1921 to discharge her share of the National Debt of the United Kingdom as existing at that date and of War Pensions. In return for this release the Saorstát, by para. 3, undertakes to discharge the liability of the British Government in respect of malicious damage done in the Saorstát since January 21, 1919, and to repay to the British Government moneys already paid by them in respect of such damage. The Government of Saorstát Eireann further agrees to increase by 10 per cent. all awards for compensation made under Act. No. 15 (1923) [1] in respect of damage to property in the Saorstát between July 11, 1921, and May 12, 1923; this additional 10 per cent. to be paid for in an issue of 5 per cent. Compensation Stock or Bonds. This agreement was subject to confirmation by the British Parliament and by the Oireachtas of the Saorstát. Inasmuch as the Treaty of 1921 had been incorporated by reference into Art. 2 of Constitution of Saorstát Eireann and confirmed by s. 2 of the Act, No. 1 (1922),[2] the Constitution of the Irish Free State Act, it was necessary to make the consequential amendments, by confirming the supplemental agreement (s. 1, Act No. 10 (1925)) and amending Act No. 1 (1922) and the Constitution (s. 2).

Finance.—The Central Fund Act (No. 6) and the Appropriation Act (No. 27) deal with the Supply Grants and Appropriations in Aid for the year. They amount to £28,991,677. It is not an irrelevant fact that the population of the Saorstát on April 18, 1926, was 2,972,802 persons.

The Finance Act (No. 28) is mainly of interest for the exemptions from income-tax and the new customs duties imposed on imports. Charities in Great Britain or Northern Ireland deriving income from the Saorstát are exempt, as are military gratuities and demobilization pay granted to the officers of the National Forces or Defence Forces, also wounds and disabilities pensions and gratuities, and the profits of agricultural societies that promote the interests of agriculture, horticulture, live-stock breeding or forestry. By s. 10 the penalties for fraudulent claims, declarations and statements have been very substantially increased. By Part II of the Act the following customs duties on imports were imposed: wearing apparel, 15 per cent.; blankets, 15 per cent.; bedsteads and furniture, 33⅓ per cent.; glass bottles and jars, 33⅓ per cent.; articles made from or containing sugar, 1*d.* on the pound or 10*d.* on the gallon; with an additional 10 per cent. on all kinds of soap. Duty is reduced on sugar imported and on cider and perry. All outdoor games and sports not involving the use of horses, dogs and mechanically propelled vehicles are exempt from entertainments tax, a privilege also acceded to competitions of handball, badminton, amateur boxing and gymnastic displays. Exhibitions of pictures not for sale or profit of person holding exhibition are also exempted. Tea, coffee and cocoa are made duty-free. Ss. 37 to 39 impose a new dog duty of 5*s.*

[1] See *Journal of Comparative Legislation*, Third Series, vol. viii, pt. ii, p. 33.
[2] *Ibid.*, vol. viii, pt. ii, p. 20.

per annum on every dog over a month old. This is collected by the Post Office by means of licences. In respect of the Corporation Profits Tax, of the Finance Act, 1920, s. 52 (1) (a) has been amended by s. 42 of the Finance Act of the Saorstát by making no tax payable on the first £1,000 of profits in substitution for the sum of £500.

The Land Bond Act (No. 25) makes further and better provisions for the issue of Land Bonds under the Land Act, 1923, and other matters ancillary thereto, such as guarantee and redemption, payment of interest and disposal of purchase annuities. It may be remembered that the Land Act, 1923 (No. 42),[1] was a Tenants' Land Purchase Act, the interest of the landlord who was bought out being paid for in Government Land Bonds at 4½ per cent. interest. The new provisions are of a detailed and technical character.

The Beet Sugar (Subsidy) Act (No. 37) has brought a new feature into the agriculture, industry and economics of Saorstát Eireann. The Government, being satisfied that the soil of the country was suitable for the growing of beet for the manufacture of sugar, encouraged the erection of beet-sugar factories, and with that end in view enacted this Act. It provides (s. 2) that the Revenue Commissioners shall make regulations prohibiting the manufacture of sugar from home-grown beet except in licensed factories, and (s. 1) that the Minister of Industries may pay out of public moneys in respect of sugar manufacture in the first factory established, a subsidy not exceeding 22*s.* 6*d.* per cwt. according to the degree of polarization of the sugar, and in respect of sugar manufactured in factories subsequently erected a subsidy to be fixed by regulation and not exceeding those set out in the schedule to the Act. This provision is to continue in force for the period of ten years from October 1, 1926. By s. 1 (2) no subsidy shall be paid in respect of sugar manufactured during the years 1926, 1927 and 1928 if the price paid by the manufacturer for the beet is less than the price laid down in the Act, viz. 50*s.* per ton. Manufacturers must pay "fair wages" as defined by s. 4 and submit with their claims a balance sheet and profit and loss account drawn up in the manner prescribed by the regulations issued by the Minister.

Local Government.—Probably the most important Act of the year is the Local Government Act (No. 5), passed to amend generally the law as to local government and to deal with other matters connected therewith. It contains 88 sections and is divided into five parts, dealing successively with the abolition of rural district councils, public health, roads, superannuation and miscellaneous matters. Under the Local Government Act of 1898 the district council was the smallest administrative unit. In rural districts it was based on the prior poor-law electoral division. The councillors elected were the poor-law guardians for the district; they were the rural sanitary authority; they had the control of such public works as were previously under the presentment sessions, such as roads, bridges, etc., within their district. In later years they had become inefficient. The first part of this Act abolishes them throughout the whole Saorstát and transfers their powers, duties, property and liabilities to the County Council (s. 3). Part II of the Act reforms the whole basis of the administration of rural public health. By s. 9 each county is to form for all purposes one rural sanitary authority, the district being called the county health district. By s. 10 the duties

[1] See *Journal of Comparative Legislation*, Third Series, vol. viii, pt. ii, p. 42.

of every county sanitary authority are to be discharged by a county Board of Health, which by s. 12 is made a body corporate with perpetual succession and a common seal, and capable of acquiring and holding property. The Board of Health has power to delegate to committees the exercise and performance of any of the duties or functions of the Board that in their opinion can be more conveniently exercised thereby. By s. 18 of the Act the Minister of Health is given extensive powers in relation to the health of the community, in prevention and cure of disease, treatment of mental and physical defects, research and publication of information and statistics, and the training of persons for health services. S. 19 enables him to form consultative councils to advise or assist in connexion with matters affecting the health of the people. By s. 21 it is enacted that each county shall appoint a County Medical Officer of Health, who shall be a whole-time officer to be responsible for the effective administration of the sanitary laws and the various powers and duties of the County Board. Part III of the Act contains the main statutory powers and duties imposed upon the County Council as to roads and bridges, their maintenance, construction and abandonment. Special powers are given to deal with buildings, hedges or trees prejudicial to the use of the road or such as to cause danger to traffic. The erection of petrol pumps is controlled by s. 35, while under s. 36 the Minister can make regulations as to the material to be used in construction and maintenance of the roads, the erection of road signs and the road signals to be used. He can also by the powers given under s. 49 regulate the speed of specified vehicles on any specified highway. Part IV deals with superannuation and in s. 42 endeavours to settle some of the difficulties which had arisen as to who was a pensionable officer. That term is now defined to mean any officer who is (*a*) a whole time officer, or (*b*) is a registered medical practitioner, nurse or midwife, the term to include also the specific occupations of officer for not less than ten years continuously of joint committees for technical instruction, notwithstanding that his appointment was renewable periodically, a standing solicitor to a local board appointed before 1919, and any person appointed permanently as dispensing chemist for the relief of the poor. Nothing in the amount or assessment of the pensions calls for particular comment save that no variable "bonus" granted to meet increased cost of living can be taken into account in fixing the amount (s. 46), but (s. 47) in such a case an allowance is given along with the pensions variable in like manner as the bonus. In the Miscellaneous, Part V, provision is made (s. 63) for payment of the travelling expenses of members of the county councils to and from meetings. A member intimates an official residence to the county authority, and if it is five miles or over from the place of meeting he is allowed under the regulations expenses at the rate of 4*d*. per mile if he travels by railway, and 5*d*. per mile if he travels otherwise. He must be in attendance at the meeting for the whole of its duration or at least three hours if the meeting exceeded that time. By s. 71 every officer of a local authority must on his appointment or on obtaining an increase of salary make and sign a declaration of allegiance to the Irish Free State and its Constitution as by law established. Until this declaration is made his appointment or increase of salary is of no effect, but he is given one month within which he can comply with this provision. If a local authority is considered by the Minister to be inefficient, or if it wilfully neglects to comply with a lawful order of the

Ministry, or fails to comply with a judgment of any Court, or refuses to allow its accounts to be audited by an auditor of the Minister, he can dissolve such local body and either direct a new election to be held or appoint commissioners to carry on their duties. The order of dissolution is in operation for three years, at the expiration of which period the Minister must order a new election (s. 72). The other provisions in the miscellaneous sections are not of much general interest.

By the Local Authorities (Combined Purchasing) Act (No. 20) the Minister of Local Government is empowered to make regulations for the purpose of enabling local bodies in the Saorstát, by means of combined purchasing, to obtain commodities at the lowest possible price. The procedure is that the Minister shall appoint one or more official contractors for the supply of certain articles. This is done by a consideration of applications in reply to public advertisement (s. 3). The articles must be of a specified standard quality and be supplied at a standard price to the local bodies named. By s. 6, if a local authority purchases from a person other than an official contractor, a special entry of the reasons for such purchase must be entered on the minutes, and the members are liable to surcharge if the auditor is of opinion that the purchase was made otherwise than in the *bona fide* discharge of their duty. Ancillary to this power, the Minister can establish Local Supplies Advisory Committees (s. 9) and inspectors (s. 11). The Act remains in operation for three years.

Public Safety Laws.—As efforts were made from time to time by irregular and partly organized forces of the Republicans to renew their attempts to overthrow the established Government or embarrass it by disturbance in certain districts by force of arms and violence, the Treasonable Offences Act (No. 18) was passed. It is a comprehensive enactment declaring various acts to be of a treasonable nature and injurious to the State. Levying war against Saorstát Eireann, assisting in, conspiring or inciting to same, or being concerned in any attempt by force of arms or violence to overthrow the Government as established by the Constitution are made offences punishable by death. Accessories who "encourage, harbour or comfort" any person engaged in any of the major offences are guilty of a felony and liable upon conviction to twenty years' penal servitude or two years' imprisonment with hard labour or fine of £500. No person can be convicted of these offences on the uncorroborated evidence of one witness. S. 2 gives a definition of the somewhat vague common-law offence of misprision of treason, as the offence of a person who, knowing that an act of treason is intended to be, has been or is being committed, fails to disclose same to a district justice or peace officer. The maximum sentence therefor is five years' penal servitude or two years' hard labour. By s. 3 the intimidation of judges, ministers, members of the Executive Council or the Governor-General by violent means, the setting-up of Courts of Law or courts-martial (not authorized by law), inciting soldiers or civic guards to mutiny, desert or refuse to obey orders, and inciting members of the civil service of the Saorstát to refuse to perform their duty are all made felonies and specific offences against the State. Misdemeanours are committed by those who usurp any executive authority, assemble under pretence of exercising parliamentary functions, form pretended military or police forces or engage in unauthorized military exercises (ss. 4, 5, 6 and 7). Secret societies in the military or police forces are made illegal (s. 8) and the

administering and taking of unlawful oaths is punishable as a misdemeanour.

Complementary to the Treasonable Offences Act is the new firearms code, contained in the Firearms Act (No. 17). It deals stringently with the possession, sale, import and export of firearms of every description. No person can possess, use or carry a firearm save in so far as authorized by a firearm certificate granted by the superintendent of the Gárdas Siochána (Civic Guards) of the district in which the applicant resides (ss. 2 and 3). Every firearm certificate expires on July 31 in each year and is confined to a particular firearm described in the certificate and marked for identification with a number to be recorded on the certificate. By s. 8 no person can be granted a certificate who is under fifteen years of age, is of intemperate habits or unsound mind, or who has been sentenced to penal servitude (not expired within five years previously), or to over three months' imprisonment (not expired within five years previously) or who is under police supervision or under bail to keep the peace conditioned that he shall not carry arms. Further, by s. 4 the superintendent granting the certificate must be satisfied that the applicant has good reason for requiring the firearm and can be permitted same without danger to public safety or to the peace. After the certificate has been granted it can be revoked by the superintendent for non-compliance with any of the aforesaid conditions. Ss. 9 to 12 enact that all retailers of arms shall be licensed annually, and they are bound to keep a register of all sales and repairs, to be entered within twenty-four hours of the transaction and to be open to inspection by the Guards. A maximum penalty of £50 is imposed for breach of the regulations. By s. 16 no firearms or ammunition can be moved within the Saorstát or from the Saorstát without the written authority of the Superintendent of the Guards for the district from which same are to be removed. In respect of the importation of arms a licence called a continuing licence may be granted for a period of six months to a registered firearms dealer, and an occasional licence to an individual for the importation of a specified weapon (s. 17). These importation licences are granted by the Minister of Defence. Very extensive powers of search are given under ss. 21 to 24 to the Civic Guards. Possession of firearms with intent to endanger life or cause serious bodily harm or to enable others to do so is made a felony punishable with twenty years' penal servitude.

Housing.—The Housing Act (No. 12) was passed to facilitate further the erection of new dwelling-houses and the reconstruction of existing buildings into one or more houses or self-contained flats. By ss. 2 and 3 the Minister of Local Government and Public Health is empowered to make grants not exceeding £300,000 in all to persons or public utility societies erecting or reconstructing houses and to local authorities carrying out similar projects under the Houses of the Working Classes Acts (1890 to 1921) or the Labourers Acts (1883 to 1919). By ss. 6 and 8 local authorities are also empowered to make grants or loans to persons or public utility societies for similar objects and to make remission of portions of the rates payable in respect of houses built under the Act for a period of nineteen years. In the case of a reconstructed house no change shall be made in the rateable valuation of the house prior to reconstruction for seven years. The nature and accommodation of the houses are fixed by the schedule, the maximum grant in respect of such being, in the case of houses having not less than five rooms, £75 if erected

by any person, and £100 if erected by a local authority. The remission of rates is fixed by the second schedule on a scale running from nineteen-twentieths in the first year to one-twentieth in the nineteenth year.

Defence Forces and Police.—The Defence Forces Act (No. 4) is the annual Act authorizing the continuance of the Saorstát Army Act for another year. The Military Service Pensions Act (No. 15) gives the Executive Council power to revoke any pension for military services granted under the principal Act (No. 48) (1925).

In 1836, by Act 6 & 7 Wm. IV, c. 29, a new and separate Police Force had been established for the district of the Dublin Metropolis. This force was always independent of the Royal Irish Constabulary, which in 1923 had been replaced by the new Gárdha Siochána (Civic Guards), in pursuance of the Gárdha Siochána Act, No. 37 (1923).[1] By the Police Forces Amalgamation Act (No. 7), s. 5, the Gárdha Siochána and the Dublin Metropolitan Police are amalgamated to form one force, the amalgamated force to be trained, equipped and maintained by the Executive Council as a police force in the Saorstát. The Act contains all necessary provisions for the adaptation of enactments and to bring the amalgamation into operation. S. 16 abolishes the Dublin Police Rate for the maintenance of the city force.

Live-stock Breeding.—The importance of the cattle industry to the Saorstát has made it advisable to pass the Live-stock Breeding Act (No. 3), whereby no person can keep a bull unless it has been licensed by the Minister of Lands and Agriculture (s. 1). No bull can be licensed that is, in the opinion of the Minister, calculated to beget defective or inferior progeny, or affected with disease (s. 3). As the types of cattle bred in various districts of the Saorstát differ, the Minister is empowered (s. 5) to declare any particular bull or type of bull as unsuitable for a particular area and can refuse to license any bull for a particular district. The Minister is assisted in these functions by inspectors (s. 12), a panel of referees to whom appeal may be made from a refusal to license a bull (ss. 14 and 15), and by a consultative council to assist and advise generally (s. 16).

Fisheries.—The salmon and trout fisheries of Ireland are a valuable national asset and since 1842 have been the subject of special legislation, contained in many Acts. The immediate controlling authority in each fishery district was the Board of Conservators. During the years of disturbance the control had become disorganized. Some boards had not functioned for some years. In other areas the statutory election of conservators had not been held. This is met by the Fisheries Act (No. 32). It is enacted by s. 1 that all existing Boards shall cease to hold office and that new boards shall be elected by the licensees on a new scale of voting based on the amount of licence duty paid by each voter (s. 8). Members of boards are disqualified under s. 10 for non-attendance at meetings. To facilitate finance, Part II of the Act contains provisions enabling the Conservators, subject to confirmation by the Minister of Fisheries, to strike a rate on all fisheries within their district to meet, along with their other income from licences, the estimated amount of their expenditure for the year (s. 18). Part III of the Act contains provisions restricting the sale by retail of salmon or trout, save by a fisherman of his own lawful capture. These sections (16 to 22) place great obstacles in the way of disposal of poached fish.

[1] See *Journal of Comparative Legislation*, Third Series, vol. viii, pt. ii, p. 29.

The licensed retailer has to keep a register of all purchases and receipts of fish for sale and of all sales thereof, these entries to be made within six and three hours respectively of the purchase or sale. The register must be kept on the premises and open for inspection by the Guards or fishery inspectors.

Arterial Drainage.—By the Arterial Drainage Act (No. 33), provision is made to cope with many thousands of acres of lands in the Saorstát subject to flooding. By s. 2 any six or more rated occupiers of flooded lands may petition the County Council to have drainage works executed. If the County Council approves of the proposal, they send it (s. 3) to the Commissioners of Public Works with a request for examination and report as to whether a suitable drainage scheme could be prepared. If the Engineers of the Commissioners of Works approve of the proposal (s. 6), they prepare a draft drainage scheme and notice is given to all persons whose lands may be required or may be affected (s. 7). Objections in writing are received to the scheme (s. 8), and if these cannot be dealt with by agreement, a public inquiry is held in consequence of which the scheme may be confirmed or altered (s. 9). Final approval is given by the Minister of Finance (s. 10). The Commissioners of Works carry out the scheme (s. 11) and compensation is paid to those from whom land has been taken or whose rights may have been injuriously affected (s. 12). An award is then prepared setting out the works carried out, the lands beneficially affected, the values thereof, and among other matters, the amount of contribution by landowners or tenants to be made to the drainage rate for payment of the terminable annuity by which the advances made by the Commissioners of Works for the scheme are to be repaid (s. 14). By s. 17 the advances by the Commissioners and the interest thereon and the terminable annuity for repayment are charged on the county fund of the County Council, who are authorized to raise the money as well as current cost of maintenance by a drainage rate. By s. 21 the drainage rate is assessed on the occupiers of the lands situated in the county and stated in the award to have been drained or improved in the proportions in which such lands are stated in the award to be liable to contribute to the drainage rate.

Courts of Justice.—By Act No. 36 (1923) [1] a Court had been established to wind up the business of the Dail Eireann Courts established during the national struggle in opposition to the British Courts. This Winding-up Court pursued its course for two years in a satisfactory manner under the Judicial Commissioner and his assistants. When only a moderate amount of arrears remained to be disposed of, it was abolished by the Dail Eireann (Winding-up) Act (No. 9). By its provisions the Commissioners cease to hold office and (s. 3) all their jurisdictions and powers are transferred to the High Court, to be exerciseable by any judge thereof. S. 5 transfers also all pending proceedings and business, and s. 7 empowers the President to arrange for the performance of the functions of the High Court in respect thereof by the Land Commission. The Dail Supreme Court (Pensions) Act (No. 13) empowers the Minister of Justice, with the sanction of the Minister of Finance, to grant pensions not exceeding two-thirds of his salary to former judges of the Dail Supreme Court.

State Supply of Electricity.—The Shannon Electricity Act (No. 26) provides for the production by the State of electricity generated by means

[1] See *Journal of Comparative Legislation*, Third Series, vol. viii, pt. ii, p. 35.

of hydraulic power derived from the River Shannon and for the distribution and supply thereof throughout the Saorstát. The Minister for Industry is given all the necessary powers for this purpose from impounding the river-waters to providing places of recreation for the persons employed. The only limitation is that the machinery, plant and equipment shall not exceed 100,000 horse-power.

Medical Profession. — Under the Medical Acts, 1859 to 1886, the medical profession in the United Kingdom was controlled by the General Medical Council as regards education and registration. After the establishment of the Saorstát Eireann as a member of the British Commonwealth of Nations and its ceasing to be part of the United Kingdom, interesting and difficult questions arose as to whether the General Medical Council still maintained professional control of the practitioners in the Saorstát, and of the education and registration of medical students in the universities and medical corporations. These questions have not yet been finally determined, and temporary measures have been resorted to in order to maintain the *status quo*. The first of these was the Medical Act (No. 2). It authorized the General Medical Council established under the British Medical Acts to continue temporarily to exercise jurisdiction and authority in respect of practitioners in the Saorstát, and continues their rights, privileges and immunities as heretofore. S. 2 continues the enrolment under the existing powers of practitioners, and s. 3 gives power to hold in the Saorstát the necessary qualifying examinations for registration under the Medical Acts.

Electoral Law.—The Electoral (Seanád Elections) Act (No. 34) makes some slight modifications in the procedure for the election of senators and contains provisions for determining the order of election.

Films Censorship. — The Censorship of Films (Amendment) Act (No. 21) extends the powers of the Official Censor under the principal Act (No. 23) (1923) [1] to advertisements by extracts of a picture unless the extract has been approved and certified. By s. 3 the exploitation sheet of any picture must accompany the application for a certificate under the principal Act, and the Official Censor has power to prohibit any advertisement which is indecent, obscene, blasphemous or contrary to public morality.

Law of Evidence.—The " Oifig an tSolathair " is the equivalent in the Saorstát of the Stationery Office. To facilitate the proof of official documents, the Documentary Evidence Act (No. 24) was passed. It enacts that as to Acts of the Oireachtas, prima facie evidence may be given by the production of a copy printed under the authority of and published by the Stationery Office. S. 2 enacts that prima facie evidence of any proclamation, order or official document issued by the Governor-General or the Executive Council may be given in one of three methods, the production of the copy of the *Iris Oifighuil* (Official Gazette), by a copy of the document printed and published by the Stationery Office or by the production of a copy or extract from such proclamation certified to be true by the Secretary of the Executive Council. S. 4 makes the *Iris Oifighuil* prima facie evidence of all rules, orders, regulations, by-laws made by the Governor-General, the Executive Council, a Minister or by any statutory body corporate or incorporate. S. 7 empowers any Minister who is head of a Department to authorize more than one person to authenticate by his signature the seal of the Minister, and the signa-

[1] See *Journal of Comparative Legislation*, Third Series, vol. viii, pt. ii, p. 53.

ture of any such one person is sufficient authentication. The British Acts, viz. the Evidence Act, 1845, the Documentary Evidence Act, 1868, and the Documentary Evidence Act, 1882, do not apply to any of the documents mentioned in the Act, but in other respects remain in force.

Shop Hours.—The Shop Hours (Drapery Trades) Act (No. 39) prohibits the opening of drapery shops in the city of Dublin and the suburban districts after the hour of half-past seven on any Saturday evening, save where the only persons employed in the shop during the week are members of the employers' family dwelling in the building.

II. NORTH AMERICA.

1. DOMINION OF CANADA.

[*Contributed by* A. G. Troop, Esq., *Law Clerk, House of Commons.*]

The fourth session of the thirteenth Parliament opened on February 5 and closed on June 27, 1925. Fifty-six Public Bills and one hundred and fifty-eight Private Bills were passed. The Private Bills included one hundred and thirty-five Divorce Bills.

Canadian National Railways.—By cc. 5 and 7 the Canadian National Railway Company is authorized to construct two branch lines of railway in the province of Saskatchewan. The Governor in Council is empowered to provide for the construction or completion of these lines prior to August 31, 1928. By c. 6 an Act of the previous session to authorize a branch line in Quebec is amended to effect prior adjustment of certain claims by the Exchequer Court before commencement of construction.

Government Annuities.—The Government Annuities Act of 1908 is amended in c. 12 to provide that a minimum annuity can be purchased for $10. It was previously fixed at $50. The amount is lowered at the request of a number of employers to give them the opportunity to purchase a government annuity for old and valued employees. The Government had on deposit from one concern alone a sum of money for the purchase of these smaller annuities. By legislation enacted in 1920, the age-limit, formerly fifty-five, at which an annuity could begin was abolished; the maximum amount of annuity purchasable was increased from $1,000 to $5,000; persons resident as well as those domiciled in Canada were made eligible to purchase, and the interest rate was increased from 3 to 4 per cent.

Industrial Disputes. — The Industrial Disputes Investigation Act of 1907 was in active operation in Canada from that year until January 1925. It was commonly known as the "Lemieux Act," having been introduced by Hon. Mr. Lemieux, then Postmaster-General. The constitutionality of the Act was upheld by Courts of the province of Quebec in 1912–13. These decisions arose out of an application by the employees of the Montreal Street Railway Company for the establishment by the Minister of Labour of a Board of Conciliation and Investigation to deal with a dispute relative to alleged dismissals and discrimination on the part of the Company against members of the street railway employees' union. The judgments in these cases upheld the validity of the statute on the ground that industrial disputes have a general or

national importance and are connected with the peace, order and good government of Canada and are, therefore, under Dominion jurisdiction.

This very important and serious question was not, however, brought to general attention until the case of *Toronto Electric Commissioners* v. *Snider, et al.*, arose in 1923. On the application for an interim injunction, the judge based his decision on the ground that the Act purports to interfere in the most direct and positive manner with the civil rights of employers and employees and also with the municipal institutions of this province, both subject-matters of legislation exclusively assigned to the provinces, and therefore he ruled against the constitutionality of the Act. On the application for a permanent injunction, however, a different judge, with co-ordinate authority, took a contrary view, holding that because of the interprovincial character of labour organizations and industrial disputes, provincial lines are obliterated, and the provinces, not having free and instant communication with each other, or for concerted action, could ill avert Dominion-wide trouble. The simple local strikes alone in contemplation in 1867 have given place to those of brotherhoods composed of hundreds of thousands, and Dominion-wide in their operations and probably beyond the resources of each province to deal with. The British North America Act, 1867, omits any reference to the subject of industrial disputes and labour organizations. On appeal to the Appellate Division of the Supreme Court of Ontario, the majority of the Court held that the Act was within the jurisdiction of the Dominion Parliament as it was not primarily law in relation to municipal institutions, local works or property and civil rights, but legislation to authorize and provide machinery for conducting an inquiry and investigation into industrial disputes between certain classes of employers and their employees, which disputes in some cases may, and in other cases will, develop into disputes affecting, not merely the immediate parties thereto, but the national welfare, peace, order and safety, and the national trade and business. The dissenting judge was of the opinion that in so far as the Act affected the Toronto Electric Commission, a body operating locally and formed by provincial authority, such legislation was not competent to the Dominion Parliament.

An appeal was taken to the Judicial Committee of the Privy Council and heard in November 1924. Judgment was given in January 1925 reversing the decision of the majority of the Ontario Appellate Division and declaring the subject-matter of the Industrial Disputes Investigation Act, 1907, to be one affecting property and civil rights, reserved exclusively to the provincial authorities, and beyond the competence of the Dominion Parliament under the terms of s. 91 of the British North America Act. The legislation could not be considered as of such importance to Canada as a whole as could be justified as being for the peace, order and good government of Canada. It was not passed under circumstances of national crisis and does not deal with a subject which circumstances have made a matter of nation-wide importance. The Act was, therefore, *ultra vires*.

C. 14 is based on this decision of the Privy Council, and on the expressed opinions of counsel engaged in that argument, and on the previous decisions of that body on constitutional matters arising between the Dominion and the provinces. The purpose of this chapter is to continue legislation for the investigation and settlement of disputes which are under the jurisdiction of the Parliament of Canada, and it in terms

provides that the Act shall apply only to any dispute in relation to employment upon or in connexion with any work, undertaking or business which is within the legislative authority of the Parliament of Canada.

Board of Audit.—By c. 32 the Governor in Council is authorized to constitute a Board of Audit composed of not less than three nor more than five persons, one at least of whom shall be a public accountant and member in good standing of an institute or association of accountants incorporated under the authority of the Legislature of a province of Canada, and the remaining members shall be persons of outstanding ability in the business or professional world or competent officers in the public service of Canada. It is the duty of this Board to act in an advisory capacity to the Treasury Board, and under its authority to inquire into and report with regard to any matters entrusted to it by the Treasury Board, including the methods of accounting in the conduct of the public business of Canada or of any department; economies which can be effected therein; the financial affairs of the Canadian National Railway Company or any other undertaking owned or carried on by the Government of Canada; or the financial affairs of any Commission or other public body carried on by appropriations from the Treasury of Canada or aided by grants or loans. The authority of the Auditor-General, given by the Consolidated Revenue and Audit Act, is not impaired by this Act.

Grain Act.—The Canada Grain Act was revised and consolidated in c. 33. This is one of the most important of the statutes of Canada, covering the operations of the vast grain trade of the West under the Board of Grain Commissioners for Canada. The original Act was passed in 1912. A Royal Grain Commission had been appointed and made a report which is possibly the most exhaustive analysis of the grain marketing system that has ever been made in Canada. Many of the recommendations of the Commission are embodied in this Act. There are new sections relating to the mixing of grain, and the cleaning and disposition of screenings under government supervision. This Act does away with the Grain Survey Board in the Western Inspection Division and provides for another method of appeal. New grades are established to cover the new varieties of wheat now grown in the western provinces. The Act is amended in order to bring under the Board the control of weighing in all the eastern port elevators. The fees are made uniform with the fees charged by regulation. Formerly the Board required dealers to take out a licence; now the onus is placed on the dealer to take out a licence. An extremely important change is the bringing of all country elevators, for inspection purposes, under the Board. The new Act makes it clear that in all cases the owner of the grain shall decide as to the terminal elevator to which the grain is to be shipped. A minor change is the extension of the time for loading a car during the months of September, October and November, from 24 to 48 hours. The Act also provides that the Board, with the approval of the Governor in Council, may fix the maximum rate that may be charged by the commission merchant. A research department is to be maintained and adequately equipped by the Board. The new s. 140 is the most important change in the body of the Act. It relates to private elevators, of which there are very many in Canada, and provides that the Board shall, subject to the approval of the Governor in Council, make provision for licensing and regulating private elevators, and determine the conditions under

which grain handled by such elevators may be weighed and inspected, and that such elevators when so licensed may carry on the business of mixing grain and grades of grain. Incorporated grain pools are authorized to operate private elevators.

A more important consideration is as to the constitutionality of the Act. This point was raised in the Supreme Court of Canada, and the Court decided in May 1925 that the Dominion cannot, by legislation ultimately intended to regulate external trade in a particular commodity, assume control over particular occupations and local works and undertakings in the provinces, notwithstanding that the intended effect of the legislation could not be attained by the provinces individually or in concert. Specifically, the Court held that subs. 7 of s. 95 of the old Act was *ultra vires*. That provided that excess surplus grain in the terminal elevators should be sold annually by the Board, and the proceeds paid to the Board and applied to the cost of administration. This incidentally and necessarily in its operation came in conflict with property and civil rights. The new Act, therefore, has a clause added by which all grain elevators and warehouses, of whatever kind or variety, whether heretofore constructed or hereafter to be constructed, are and each of them is declared to be works or a work for the general advantage of Canada; and for greater certainty a complete list of all elevators is made a schedule to the Act. It is hoped in this way to retain the jurisdiction of the Dominion over the grain trade by invoking the provision of s. 92 (10) of the British North America Act conferring upon the Dominion power to legislate on works declared by the Parliament of Canada to be for the general advantage of the Dominion.

Canteen Funds.—The disposal of the Canteen Funds is settled by c. 34. There was in the hands of the Receiver-General of Canada the sum of $2,350,000 to be distributed, and the purpose of the Act is to effect such a distribution as will benefit the ex-members of the forces and their dependents. A board of trustees is appointed for each province and the Yukon Territory. The Act provides that $20,000 shall be held on account of outstanding accounts; $15,000 is to be paid to the Disablement Fund; $50,000 to the United Services Fund of Great Britain and $50,000 to the American Red Cross Association, for the relief of specially meritorious cases in the United Kingdom or the United States; and the unexpended balance in the hands of the High Commissioner for Canada in England is to be utilized by him for the relief of distressed ex-members of the forces in the United Kingdom. The residue is to be divided into ten different allotments in the proportion prescribed for the provinces or territory, and on the appointment of the boards of trustees each allotment shall be paid over to the board, which shall determine the object to which the allotment shall be devoted and administer the same according to the general rules set forth in the Act.

Smuggling.—The Governor in Council was authorized by c. 54 to make such orders and regulations as are deemed necessary to carry out the provisions of the Treaty with the United States for the suppression of smuggling operations along the international boundary between Canada and the United States, and for assisting in the arrest and prosecution of persons violating the narcotic laws of either Government, and providing as to the omission of penalties and forfeitures in respect to the carriage of alcoholic liquors through Alaska into the Yukon Territory, and for kindred purposes.

The Customs Act is amended by c. 39, and stringent provisions to prevent smuggling are enacted. If the value of the goods is under $200, or there is a false invoice, or an attempt to evade the payment of duty, the goods shall be seized and forfeited and the person so offending shall forfeit the value thereof as ascertained, such forfeiture to be without power of remission if the goods have been smuggled into Canada. Likewise every such person shall forfeit a sum equal to the value of such goods. If the value of the goods is $200 or over the offender is guilty of an indictable offence and liable, in addition to any other penalty to which he is subject, to imprisonment for from one to seven years for a first offence and from three to ten years for a second offence, and the goods, if found, are forfeited without power of remission, and if not found, the offender shall forfeit the value without power of remission. The Court has no discretion and cannot impose less than the minimum penalties and must in all cases of conviction impose both fine and imprisonment. In addition, seizure and forfeiture, without power of remission, and very heavy penalties are imposed where any person knowingly harbours, keeps, conceals, purchases, sells or exchanges any goods unlawfully imported into Canada, whether such goods are dutiable or not, or whereon the duties lawfully payable have not been paid.

Divorce.—No general Divorce Act has been passed by the Parliament of Canada, although the subject of marriage and divorce is assigned to the Dominion by the British North America Act, s. 91, subs. 26. All the provinces except Ontario and Quebec have Courts with jurisdiction to grant divorce, either because such Courts existed prior to the date such provinces entered confederation, or because the Divorce and Matrimonial Causes Act of 1857 has been made applicable to such provinces and has not been repealed by Dominion or provincial legislation. Under that Act the husband could obtain divorce for adultery alone, while the wife must prove adultery coupled with another offence. This inequality of right was recently rectified in England, and by c. 41 the Canadian Parliament has enacted that in any Court having jurisdiction to grant divorce *a vinculo matrimonii*, a wife may commence an action praying that her marriage may be dissolved on the ground that her husband has since the celebration thereof been guilty of adultery. If the case is proved, the decree will be granted unless connivance, condonation or collusion is found, or the wife during the marriage has been guilty herself, or has unduly delayed presenting her action, or has deserted her husband, or been herself guilty of cruelty, or has separated from him without reasonable excuse or has been guilty of wilful neglect or misconduct.

As regards the provinces of Ontario and Quebec, applications for divorce are made directly to the Parliament of Canada, and the number of divorce bills has been constantly increasing, more particularly from Ontario. These cases are first heard by the divorce committee of the Senate, and the Bill, if passed, is sent from the Senate to the House with all the evidence, and, if agreed to by the House, becomes law in the usual way.

Banking.—An unusual Act was passed, c. 45, for the relief of certain creditors of the Home Bank of Canada. There had been a disastrous failure of this chartered bank. The Act provides that $3,000,000 may be paid and applied for the purpose of paying to the persons who were creditors of the bank when it suspended payment, for money on deposit

or in current account, the amounts to which they are respectively entitled as therein provided; but in no case shall any payment so made exceed 35 per cent. of the claim of the creditor as settled and approved by the Court in the winding-up proceedings. The President of the Exchequer Court or the puisne judge of that Court is a commissioner to determine which creditors are in special need or in straitened circumstances by reason of the suspension of the bank, and to decide whether or not any creditor whose claim has been settled and approved by the Court in the winding-up proceedings is entitled to receive any, and if so, what amount of, pecuniary aid. The commissioner's decision is final. Approved claims of not more than $500 are entitled to be paid 35 per cent. thereof without investigation. All claims must be filed within twelve months. The commissioner sends to the liquidators of the bank the list of persons entitled to aid and the amount allowed, the distribution to be made by the liquidators, and the amount appropriated by the Act is paid to the liquidators for these purposes.

Other Acts passed include the Australian Trade Agreement; the Finland Trade Agreement; the Netherlands Trade Convention; to amend the Dominion Elections Act; to amend the Ottawa City Agreement; and the Publication of the Statutes.

2. ALBERTA.

[*Contributed by* JOHN D. HUNT, ESQ., *Clerk of the Executive Council.*]

Acts passed: Public—58; Private—9.

Stock Inspection.—By an amendment to the Produce Merchants Act in 1923, the definition of "produce" was extended to include "hides," and every hide dealer had to take out a licence and put up a bond approved by the Minister.

The Stock Inspection Act also had a provision that every butcher and other person dealing in the purchase and sale of hides had to take out a licence which gave him the right to buy and sell hides on specified premises in the Province. An amendment (c. 36) to the Produce Merchants Act provides for the removal of hide dealers from the operation of that Act, and brings hide dealers under the Stock Inspection Act, where no bond is required.

The Act (c. 33) is amended to change a butcher's and hide dealer's licence, to allow trading in any part of the Province. The fee for a licence is fixed at $2.

Minimum Wage for Women.—C. 23 is a new Act containing many of the provisions of the Minimum Wage Act, of which it takes the place.

New provisions give the Minimum Wage Board, consisting of three members, one representing the employer, one the employees and the third the Province at large, wide discretion in determining the class of employees or class of employment to which the minimum wages are applicable.

The Board may by an order fix minimum wages, and direct that no employer affected thereby shall pay wages less than that fixed therein.

The wages fixed may be made to apply universally to a trade or occupation, or to any class of employment or to any special area. Any order shall apply to all the places designated in Schedule A, unless its operation is expressly restricted to one or more of such places.

Powers are given the Board to authorize deductions for a less number of hours than those fixed generally, or in any case where meals or lodging are furnished or in any similar case.

Specific authority is given the Board as to fixing learning periods, and as to instruction of learners.

Provision is made for individual permits for handicapped employees and for the temporary increase of working hours in case of the breakdown of machinery or other uncontrollable emergency or where by reason of the season of the year or otherwise it seems advisable to the Board to grant such permits.

Learners or apprentices in any industry are not to be called upon to pay any premium after four weeks from the commencement of the employment.

Publication in the *Alberta Gazette* is to be sufficient notice of the existence and terms of any order or regulation.

Penalties are imposed upon employers who contravene or fail to comply with the provisions of the Act or any order or regulation of the Board.

The Minister of Public Works is authorized to appoint an inspector to assist in carrying out the provisions of the Act or any orders or regulations made thereunder.

The Minimum Wage Act is hereby repealed, but orders and regulations made thereunder shall continue to be operative until revoked.

Mental Defectives.—By c. 47 it is provided that the responsible parent or guardian of any person removed from an institution shall in the first week of January and July in each year report to the superintendent, the place of residence and mental condition of, the care received by and supervision given to, such mental defective.

Where a mental defective is paroled to the care of some responsible person, such person shall advise the superintendent of the institution every three months as to the place of residence, the general welfare and conduct of the person paroled.

Every inspector of schools shall, where he has reason to believe that a child is a mental defective, report such fact to the chief inspector of schools, who shall thereupon advise the Department of Public Health.

Forms are given for the use of a justice in notifying the Minister of Health that he has assigned a mental defective to the care of some responsible person and for an order for admission to the School for Mental Defectives at Red Deer.

Venereal Diseases Prevention.—The Act as it stood permitted the sale of medicines, etc., for venereal diseases if approved by the regulations. The regulations approve of a great number of medicines, etc., the indiscriminate use of which is likely to be harmful, so the first amendment (c. 48) to the Act forbids the sale of such medicines except upon a prescription of a doctor.

The Act further provides for (*a*) the compulsory medical examination of persons under arrest and charged with prostitution; (*b*) medical examination at the discretion of the magistrate of persons under arrest and charged (i) in Edmonton, Calgary, Lethbridge or Medicine Hat, with any other offence under the Criminal Code, or (ii) with any offence under the Children's Protection Act; (*c*) the subsequent detention of persons examined and found to be suffering from venereal diseases.

Chiropractors.—C. 45 provides for interim licences permitting chiro-

practors being holders of diplomas issued by a recognized school of chiropractic and otherwise qualified to present themselves for examination, to practise for a limited period prior to passing an examination provided for chiropractors who were not practising in the Province at the date of the Chiropractic Act.

Sale of Coal.—C. 21 puts into statutory form regulations made under the Coal Sales Act of 1923.

Some of the chief provisions are :

The operator of every coal-mine in Alberta shall register a trade name for the coal mined therefrom, in the office of the Chief Inspector of Mines, and all coal shall be both sold and shipped under said trade name.

No coal produced in Alberta shall be advertised or sold except under its registered trade name.

Every manager of any coal-mine in Alberta shall state in every invoice and shipping bill the following particulars : (*a*) The name of the Post Office address of the mine and the trade name of the coal. (*b*) The coal area in which the mine is situated. (*c*) The size of the coal shipped.

Every dealer, wholesale or retail, selling coal produced in Alberta shall on every bill or invoice give the same information as is required of a mine manager and every such dealer selling coal produced elsewhere than in Alberta shall give such information, together with the name of the country, province or state in which the coal was produced.

Every dealer, wholesale or retail, selling coal produced in Alberta shall keep a record in his office of (*a*) the amount of coal purchased by him from every mine in Alberta or from places outside of Alberta ; (*b*) the amount of the sales of coal so purchased.

Such record shall be classified under the registered trade name of the coal, if any, and shall show the size of the coal and the persons to whom sales were made, and shall be at all reasonable times open to the inspection of any inspector appointed under the provisions of this Act.

An inspector at any point of shipment shall have power to inspect any invoice and also to inspect the coal, and if such coal does not conform with the information contained in the invoice, or if it contains an excess amount of slack or other impurities, he may stamp a statement to that effect upon the face of the invoice.

An inspector is also given power to inspect any invoice or other document relating to the sale of coal in the possession of a dealer, wholesale or retail, or consumer or any coal in the possession of any such person, and if he finds that any such coal does not conform with the information contained in the invoice he may take possession of the said document and retain the same.

Any person who infringes any provisions of this Act shall be liable upon summary conviction to a fine not exceeding $500 for each offence or imprisonment for a period not exceeding six months or to both fine and imprisonment.

The Lieutenant-Governor in Council is given power to appoint inspectors, classify and grade coal, to increase or diminish the number of coal areas into which the Province is divided by this Act to prescribe fees for services performed and to make any such other regulations as may be necessary or convenient.

Juries.—By c. 14 a trial judge is given the right to excuse from serving on a jury such persons as in his discretion would suffer hardships

or unnecessary inconvenience by so serving. Every jury shall consist of six persons. In all criminal proceedings the verdict of the jury shall be unanimous. In all civil proceedings any five of the jury may return a verdict.

Workmen's Compensation.—Compensation is allowed by c. 24 to a workman who is frostbitten in the course of his employment.

Vital Statistics.—C. 40 provides that at the beginning of each school term every teacher in charge of a school shall prepare a list of the children then entering the school for the first time, together with the places and dates of their births, and shall forward the same to the Registrar-General. Fees are prescribed for the registration of legitimated children, a larger fee being asked for where the birth occurred outside the Province.

Solemnization of Marriage.—C. 39 is a redraft of the Marriage Act, c. 213 of the Revised Statutes of Alberta, 1922, the whole of the said Act being repealed with the exception of s. 20 inserted as an amendment in the Statute Law Amendments of 1923.

The chief changes made are as follows:

Clergymen and marriage commissioners must hold certificates from the Registrar-General.

The manner of effecting the publication of banns of marriage is set out in greater detail. The effect of the publication of banns ceases two months after the second Sunday of publication.

The form of marriage licence is changed and provision is made for sealing by the Registrar-General rather than signature by him.

Provision is made for the appearance of both parties to a marriage before the issuer of licences and for each to make an affidavit in the prescribed form.

If either of the parties is unable to make the affidavit personally the issuer may permit such party to make the affidavit before a justice of the peace and every such affidavit shall contain the reason relied upon to excuse personal attendance before the issuer.

In the case of the marriage of minors, provision is made for dispensing with the consents of the parents where the parents are dead, mentally incompetent or beyond the seas. Between the ages of sixteen and twenty-one a judge may dispense with consents.

No licence shall be issued where either of the parties is under the age of sixteen years and no banns shall be published in respect to any such marriage, nor shall marriage be solemnized with either of the contracting parties under the age of sixteen years. A penalty is affixed for the wilful issue of marriage licences to idiots, insane persons or intoxicated persons.

A new form gives the form of certificate of publication of banns.

Reciprocal Enforcement of Judgments and Awards.—C. 5 provides a procedure by which persons who have obtained in any other Province of Canada which passes a similar law a judgment that would be recognized by the Courts of this Province, can register such judgment according to its amount in the Supreme Court or in the District Court, and when so registered it will become a judgment of the Alberta Court and be enforceable in this Province.

Government Liquor Control.—By c. 3 the definition of "liquor" is extended to include all preparations or mixtures capable of human consumption which are intoxicating.

The definition of the word " residence " is changed to include tent and not to include any portion of a building used in part for business purposes unless such portion is separated therefrom by a wall or walls having no doors or other means of access opening into the part used for business purposes.

Petitions for the formation of Local Option Areas in municipalities may now be signed by " persons whose names appear on the last revised assessment roll of the municipality, and who are resident in such municipality."

The control of the Board by regulations is extended to cover canteens.

The Board may in its discretion cancel any subsisting permit or refuse or direct any official authorized to issue permits to refuse to issue a permit to any person and no official so directed shall issue any such permit.

Where upon proof of the loss or destruction of the original permit, a duplicate may be issued for which a fee of 50 cents shall be paid.

If the occupant of a residence or any part thereof is convicted of keeping a disorderly house or of an offence against any of the provisions of this Act committed in respect of such residence or of any liquor kept therein or removed therefrom, the same shall cease to be a residence within the meaning of this Act, but shall be deemed a public place for a period of one year after the date of such conviction.

Provided that the Board may, when satisfied of a *bona fide* change of ownership or occupant or when it is desirable to do so, declare such premises to be a residence and grant a certificate to such effect.

Where the permit of a person has been cancelled for one year, the Board may direct the issue of another permit to the said person within the year if he has not been convicted of any offence under this Act.

No club shall be granted a licence to sell beer unless it has been in continuous operation for at least three years immediately prior to the date of its application for such licence and unless such club at least one year prior to the date of application has filed with the Board notice of its intention to make such application and complies with any regulations made by the Board.

The Board may at any time by notice in writing to a brewer or a brewer's agent require a return of sales by him and such return shall be made within three days after receipt of such notice, and in case of default the brewer or brewer's agent shall be liable to a fine of $20 per day for each day such default continues.

No person shall hereafter sell or keep for sale any proprietary or patent medicine or any extract, essence, tincture, toilet water or preparation which contains more than 2½ per cent. of proof spirits within that portion of the Province of Alberta north of a line drawn as follows : commencing at the point of intersection of the eastern boundary of the Province with the line of the fifty-fifth parallel of latitude, thence westerly along the said line of latitude to the point where the fifth meridian intersects said line, thence north along said meridian line to the line between townships seventy-six and seventy-seven, thence west along the said line to the line between ranges thirteen and fourteen, west of the fifth meridian, then northerly along said line to the line dividing townships eighty-eight and eighty-nine, thence westerly along said line to the western boundary of the Province. Provided that any person duly authorized in writing for the purpose by the Board may sell and

keep for sale within the area described any proprietary or patent medicine prepared according to a formula approved by the Board. Such authority may be withdrawn at any time by the Board.

No person shall have or keep any liquor within the Province which has not been purchased from the Government Vendor of the Alberta Liquor Control Board or from a druggist authorized to sell same, save and except beer purchased from a brewer licensed to sell the same under the provisions of this Act. This provision shall not apply to the Board or to the keeping or having of liquor by brewers, distillers and other persons duly licensed by the Dominion of Canada for the manufacture of such liquor nor to the keeping or having of any proprietary or patent medicines or of any extracts, essences, tinctures or preparations where such having and keeping is authorized by this Act.

The provision that the package containing liquor shall be sealed with the official seal shall not apply to malt liquor as defined in the Act.

No vendor, beer licensee or club licensee nor any employee of a vendor, beer licensee, canteen licensee or club licensee shall sell any liquor or permit any liquor to be sold to any person apparently under the influence of liquor.

No person shall apply in any name except his own for the issue to him of a permit for the purchase of liquor or beer.

Any constable who is authorized in writing for the purpose by the Attorney-General, if he believes that liquor is unlawfully kept or had in any building or premises, may without warrant enter and search such building or premises and every part thereof and for that purpose may break open any door, lock or fastening or any closet, cupboard, box or other receptacle therein which might contain liquor.

Any police officer or constable may without warrant arrest any person whom he finds committing an offence against this Act.

Provision is made for payment to a municipality of the moneys derived from fines, in the cases of offence against this Act occurring in a municipality and prosecuted to a conviction by the police or any official of the said municipality. This provision shall be deemed to have been in effect from the tenth day of May, 1924.

This Act as originally passed is declared to be and to have been in force on, from and after the tenth day of May, 1924.

This Act excepting as to club licences shall come into force on April 10, 1925.

Mental Diseases.—C. 46 provides that the justice of the peace in giving directions for the admission to a hospital of any person committed thereto shall name some person or persons, either near relatives or intimate friends of such person or officers of a municipality, who shall be charged with the duty of conveying such person to the hospital.

Power is given to the Minister of Health to have persons admitted to a hospital for a period of not more than thirty days for observation as to their mental condition.

Private Hospitals.—C. 41 provides that no private hospital shall be operated except under a licence issued by the Provincial Board of Health.

Every application for a licence shall be in writing verified by statutory declaration of the applicant and accompanied by a fee of $5.

Every licence shall state whether the private hospital is licensed as a medical and surgical hospital or a maternity home or a baby shelter,

and shall continue in force until the first day of January next following the date of its issue.

A licence may be revoked by the Provincial Board if the licensee has made default for three months in paying the annual fee, or if the licensee or superintendent has been convicted of an offence against this Act, or any offence punishable by imprisonment, or if in the opinion of the Provincial Board the premises are insanitary or the private hospital is managed or conducted in such a manner that the revocation of the licence is required in the public interest.

In every private hospital there shall be kept a register in which shall be entered the name, age and residence of every patient and the date of admission, the name of the medical practitioner, if any, attending each patient, the date at which each patient leaves or in the event of the death of a patient the date of such death, and such other particulars as may be prescribed by the Provincial Board.

Every private hospital and the registers thereof shall be at all times open to inspection by the Provincial Board.

The superintendent of a private hospital shall be deemed to be the occupant thereof for the purpose of giving notice or information under the Public Health Act, or under the Vital Statistics Act, and such superintendent shall in respect of every child born in a private hospital cause a form in Form A of the schedule to the Vital Statistics Act to be filled up and to be signed by the mother of the child before she leaves the hospital and thereafter to be forwarded to the Registrar of Vital Statistics.

No operation shall be performed in a private hospital in any place where accommodation can be obtained in an approved hospital, unless and until the consent of the Department of Public Health has been applied for and obtained, except operations of an ordinary obstetrical nature.

Curettage or Cæsarean section shall not be considered to be of an ordinary obstetrical nature.

In case of death in a private hospital a full report shall be forwarded to the Provincial Board of Health. Heavy penalties are provided for violation of the provisions of the Act.

Industries Assessment.—In c. 10 "municipality" shall include the council of any city, town or village.

This Act gives every municipality power to pass a by-law for fixing the assessment of the property of any person carrying on or proposing to carry on within the area of the municipality any industrial establishment or manufactory on such terms and conditions as the council may deem proper.

The fixed assessment shall not be for more than twenty years, shall not be renewable and shall not apply to or affect any taxes other than taxes on improvements.

The fixed assessment shall not be less than 10 per cent. of the value of the improvements.

The by-law shall not be passed except with the affirmative vote of three-fourths of all members of the council and shall not be operative until it has received the consent of two-thirds of the electors qualified to vote on money by-laws who vote thereon.

No by-law shall be passed granting a fixed assessment in respect of a business established elsewhere in Alberta or which has been removed to the municipality from another municipality in Alberta.

Land owned by a municipality may be transferred or leased by it to any industrial establishment or manufactory and water, light, power and other municipal service may be supplied at a price, rental or rate determined by the Board of Public Utility Commissioners as being fair market value or fair rental value of the land or a fair wholesale rate for the said supply, as the case may be.

Co-operative Credit.—The Act as it stood provided that an endorser of any note shall be subject to all the conditions and penalties imposed upon a borrower.

The amendment (c. 29) provides that the endorsement shall only so operate after the endorser has signed a memorandum constituting an authorization of such provision.

The Act further provides for the formation of co-operative credit societies whose operations are limited to the production of sugar beets.

In the case of such a society the Provincial guarantee is only to operate when a sugar-beet company hold shares to half the value of the shares held by the ordinary shareholders.

The Act further provides for the summary taking possession of crops covered by the security given to the secretary-treasurer in the event of the borrower deserting his land or neglecting his crop or of his failure to carry out the purposes for which the loan was obtained from the society.

Bee Diseases. — An amendment (c. 38) extends the provisions of s. 7 of the Act to forbid the keeping of bees imported into Alberta otherwise than in combless packages and to forbid the keeping by any person within the Province of hives, frames, combs or other equipment for the housing or care of bees except those made of metal that has been thoroughly sterilized before shipment.

Lunatics' Estates.—By c. 19 the provisions of the Act are extended to include mentally incompetent persons as well as those who are dangerous to be at large. The Act is now cited as " The Estates of the Mentally Incompetent Act," and the necessary changes in the wording of the different sections have been made.

The Administrator may after the admission of any mentally incompetent person to a hospital file a certificate signed by the Attorney-General with the Registrar of Land Titles Office, and upon receipt of such certificate the Registrar of Land Titles Office shall register the same and until he receives notice from the Administrator of the withdrawal of the said certificate he shall not accept for registration any instrument affecting the mentally incompetent person's lands except an order of the court, a certified copy of writ of execution, a caveat, or any document subsequent to the said notice properly registerable in the course of proceedings for foreclosure or sale, unless such instrument is duly executed by the Administrator or the registration is authorized by him.

Upon the removal of a mentally incompetent person from a hospital, the Administrator may retain the control of administration of the estate so long as it is in his discretion necessary or desirable.

Welfare of Children.—C. 4, cited as the Child Welfare Act, re-enacts the provisions of the Children's Protection Act and extends the provisions to include most of the other laws relating to children.

The Lieutenant-Governor in Council may appoint a Superintendent of Child Welfare who, assisted by a Deputy Superintendent and such probation and other officers as may be necessary, shall administer the Act under the direction and control of the Minister of Health.

The Act is divided into six parts under the following heads: (1) Officers. (2) Neglected Children. (3) Handicapped Children. (4) Immigrant Children; (5) Child-welfare Organizations; and (6) General Provisions, including (*a*) by-laws of municipal councils; (*b*) shelters and child-welfare officers; (*c*) ill-treatment of child; (*d*) power of search; and (*e*) interfering with children.

The Children's Protection Act is hereby repealed.

Crop Payments.—It is provided by c. 27 that where in any lease, agreement for sale or mortgage of land provision is made for the payment in whole or in part of the rent, purchase money or mortgage money by the delivery of a share of the crop grown on the said land or of the proceeds of such share, then the lessor, vendor or mortgagee shall be deemed to be and to have been the owner of such share from the moment of the sowing of the said crops until the same have been delivered into his possession and neither the lessee, vendee or mortgagor or any person claiming from or under him as an execution creditor, purchaser, mortgagee or otherwise howsoever, shall have any claim hereon in priority to that of the said lessor, vendor or mortgagee.

Notwithstanding any other provisions of this Act the same shall not operate to vest in a mortgagee, lessor in any one year the ownership of any part of the crops in excess of a part sufficient when sold to discharge the interest and any other indebtedness of the mortgagor due or accruing due under the terms of the mortgage prior to the end of that year, other than the original principal moneys, nor to confer any priority upon him with regard to crops agreed to be delivered in excess of such part.

Tax Recovery.—The amendment (c. 7) provides that lands on which arrears of taxes are not more than one-half of the previous year's municipal levy for all purposes shall not be put on the list for sale.

The provisions of the Land Titles Act as to notice of a caveat and of its withdrawal shall not apply to any caveat filed pursuant to this Act at any time heretofore or hereafter.

Upon payment by the owner or on his behalf of all taxes which are shown on the records of the treasurer as being in arrears with respect to any parcel of land prior to the issue of transfer by the treasurer to the municipality the treasurer shall forthwith withdraw the said caveat.

The provisions as to the preparation by the treasurer and publication of lists after filing of caveat have been amended to read as follows:

(1) During the month of March following the filing of such caveat the treasurer shall prepare a list of all parcels of land which have not been redeemed, and shall forward a copy thereof to the proper Land Titles Office, and upon receipt thereof, and not later than the 1st day of August following the receipt thereof, the Registrar of such Land Titles Office shall cause to be sent by registered mail a notice to the following persons whose names appear as being interested in any parcel of land comprised in such list, and to no others, namely: registered owners, caveators and the mortgagees and other incumbrancees referred to in s. 92 of the Land Titles Act, as the same are shown by the register as at the 31st day of March following the filing of such caveat, and such notice shall be in the form following, namely.

From and after the filing of a caveat pursuant to this Act the municipality is given the right to prevent voluntary waste in respect of the land or any buildings or erections thereon.

As and from the date fixed for the sale of any parcel of land pursuant to this Act the municipality and all persons claiming by or through

the municipality shall be entitled to quiet and peaceable possession of the said parcel.

Every sale proposed to be held by a municipality shall be advertised in one issue of the *Alberta Gazette*, published not less than forty days and not more than ninety days before the proposed date of sale, and in a newspaper having general circulation in the municipality once in each of the two weeks immediately preceding the proposed date of sale and shall be by public auction.

The treasurer shall within two weeks of the appearance of the said advertisement in the *Alberta Gazette* send by registered mail a copy thereof to every person actually appearing on the assessment roll as the owner of any parcel of land set out in said advertisement.

The purchase price shall in general be payable in cash within thirty days of the sale, but if the council by resolution so authorizes, sales may be made upon the instalment payment plan or upon the plan of taking a mortgage for any balance of the purchase price which is not paid at the time of the sale.

The Minister of Municipal Affairs may by regulation prescribe the conditions of sale upon which sales other than for cash may be made.

Every advertisement shall specify the place, day and hour at which the sale shall commence and the conditions of the sale and each parcel of land shall be designated therein by a reasonable description.

The proceeds of the surplus of any parcel of land (if any) where there is more than one claimant shall be paid to the person or persons declared to be entitled thereto by a judge of the District Court.

If there has been no application for such surplus within three years of the sale the surplus shall become the property of the municipality.

Any parcel of land may be redeemed by the owner or on his behalf after the issue of transfer to the municipality by the treasurer and before the sale or final acquisition by the municipality, whichever first happens by the payment of all taxes and arrears of taxes.

3. BRITISH COLUMBIA.

[*Contributed by* A. V. Pineo, Esq., *Legislative Counsel.*]

Acts passed—69; Public—64; Private—5.

Administration of Estates.—Important changes in the law as to the course of descent of real estate and the distribution of personal estates of intestates were made by the adoption of the uniform Intestate Succession Act prepared by the Conference of Commissioners on Uniformity of Legislation in Canada. This was adopted by way of enactment (c. 2) as Part VII of the existing Administration Act.

The following is a summary of the more important provisions.

The widow of an intestate, where one child survives, takes one-half the estate; and where more than one child survives, she takes one-third.

Subject to the rights of a widow, the issue take the estate *per stirpes*.

Where no issue survives, the widow takes the estate up to the value of $20,000 and one-half of the residue, the other half going to the heirs who would take if there were no widow.

If the intestate leaves no widow or issue, his estate goes to his father and mother equally, or to their survivor; or if no father or mother survives, to his brothers and sisters in equal shares. Children of deceased

brothers and sisters take *per stirpes*, or, if they are the only persons entitled, they take *per capita*.

In other cases the estate goes to the next of kin, equally among those of equal degree of consanguinity and their representatives, no representation being admitted after brothers' and sisters' children.

Degrees of kindred are computed by counting upward to the nearest common ancestor and then downward to the relative, and the kindred of the half-blood inherit equally with those of the whole-blood in the same degree.

Dower and curtesy are abolished.

Illegitimate children and their issue inherit from and through the mother, and the estate of an intestate illegitimate child leaving no widow or issue goes to the mother, or to other children of the same mother.

The estate of a woman dying intestate is distributed in like manner as the estate of a man so dying.

A spouse who has left the intestate and is living in adultery at the time of the intestate's death takes no part of the estate.

Animals, Domestic. — C. 3, supplemented by c. 14, provides an amendment of the Animals Act of considerable importance to those using Crown lands for grazing purposes, in permitting, at the instance of the Minister of Lands or of any live-stock association, the shooting not only of wild horses as commonly known, but also of branded horses which have been allowed by their owners to revert to a semi-wild state.

Contributory Negligence.—C. 8 enacts the uniform Contributory Negligence Act prepared by the Conference of Commissioners on Uniformity of Legislation in Canada, by which the common law rule as to contributory negligence is superseded by a rule similar to that of the maritime law, that where by the fault of two or more persons damage or loss is caused to one or more of them, the liability to make good the damage or loss shall be in proportion to the degree in which each person was at fault.

Elections, Provincial.—C. 10 contains amendments of the provision made in 1920 for absentee voting at provincial elections. The amendments, directed principally to the form of ballot-papers, are designed to prevent any tampering with an absent voter's ballot between the time of its deposit by the voter and the final count in the electoral district to which it relates.

Forests.—C. 12 provides for the establishing of a "Forest Reserve Account" for the purpose of meeting the cost of development, protection and re-forestation of Crown lands held in forest reserves. An annual appropriation to this account is provided equal to three per centum of the gross receipts of the Crown for the year from timber royalty and stumpage dues on Crown timber.

Highways.—C. 16 gives further powers of making regulations for the convenience and safety of persons using public highways. Power is given to regulate the size and weight of vehicles and loads and the speed of heavy vehicles likely to injure the road-surface. The stopping of vehicles at railway crossings and before entering upon or crossing certain designated trunk highways, and the operation of passenger-carrying motor-vehicles on approved time-schedules and the furnishing of security for payment of damages suffered by their passengers through accident are also dealt with.

Historic Objects Preservation.—By c. 17 power is given to declare any primitive figure or legend cut in or painted upon rock as well as any structure or natural object existing within the Province of British Columbia to be an "historic object," and to make provision for its preservation, the object being to preserve certain petroglyphs and other things connected with aboriginal life in, and the early history of, the Province.

Insurance.—A consolidation of insurance statutes is provided by c. 20, covering life insurance, accident and sickness insurance, fire insurance, automobile insurance and miscellaneous classes of insurance, as well as licences of underwriters' agencies, insurance agents and insurance adjusters. In most instances the Act is uniform with the insurance Acts in force in most of the other Provinces of Canada. The subject of marine insurance is dealt with in a separate Act (c. 21), which is practically identical with the Imperial Act, 6 Edw. VII, c. 41.

Licences, Real-estate Agents'.—As an amendment to the Real-estate Agents' Licensing Act, c. 26 prohibits licensed real-estate agents and salesmen from sharing commissions with or making payments to any unlicensed person acting as a real-estate agent or salesman.

Mines.—C. 29 makes special provision for the leasing of Crown lands for the mining of tricalcium phosphate, and c. 30 gives powers additional to those already existing for the compulsory taking of land for rights-of-way to mining properties.

Minimum Wage.—C. 32 empowers the Board of Adjustment, constituted under the Hours of Work Act, 1923, to fix a minimum wage for male employees in all occupations other than those of farm-labourers, fruit-pickers, fruit-packers, fruit and vegetable canners and domestic servants.

Motor-vehicles.—C. 33, in amending the Motor-vehicle Act, re-enacts the provision dealing with speed in passing schools and also the provision dealing with driving to the common danger. Provision is also made imposing the duty on persons who carry on the business of letting motor-vehicles for hire to ascertain that the person hiring a motor-vehicle is the holder of a driver's licence and to keep an entry of his signature and licence number in a record-book.

Municipal Manager.—C. 34 empowers the Council of any municipality, either on its own motion or on initiative petition and vote of the municipal electors, to appoint an official as manager of the municipality; and to delegate to that official any of the powers given to the Municipal Council by any Statute, except the power of passing by-laws.

Municipalities.—C. 35, amending the Municipal Act, contains provisions extending somewhat the by-law-making powers of municipalities; provisions enabling a Municipal Council having a surplus of borrowed moneys on hand after completion of any work to place the unexpended balance in the sinking fund account of the debentures on which the money was borrowed, and to expend the sinking fund in the purchase of the unmatured debentures; provisions extending and consolidating the trades-licensing powers of Municipal Councils; and provisions for the superannuation of Police Magistrates.

Reciprocal Enforcement of Judgments.—By c. 44 the Province of British Columbia adopted the uniform Act prepared by the Conference of Commissioners on Uniformity of Legislation in Canada, which provides for the registration and enforcement in the Province of judgments and

awards given or made in any other Province of Canada which enters into reciprocal arrangements for that purpose.

Sheep Protection. — C. 47 amends the Sheep Protection Act by providing for the compulsory licensing of all dogs both within and without municipalities, and the creation of a fund from which compensation may be paid to the owner of a sheep or goat killed or injured by a dog where it is found impossible to collect from the owner of the dog the amount of damages awarded.

Town-planning.—A somewhat modified form of town-planning Act was adopted by c. 55, which empowers every Municipal Council, either with the assistance and advice of a town-planning commission appointed by it or without such assistance, to prepare comprehensive and official plans for the future physical development and improvement of the municipality in a systematic and orderly manner, based primarily upon public utility, convenience and general welfare. Provision is made so that subsequent public works shall be in accordance with the town plan, and power is given the Municipal Council to divide the municipality into business, residential and other areas or zones in which all buildings erected shall conform to certain defined limitations as to character, height and use.

Water.—C. 61, in amendment of the Water Act, contains certain further provisions regulating the obtaining and use of water under licence from the Crown. S. 3 makes it clear that the property in and the right to the use of all water in the Province is for all purposes vested in the Crown, except only private rights existing under licence. The abolition of riparian rights to the use of water is made complete, except as to claims of riparian proprietors filed under the Act prior to 1920.

Workmen's Compensation.—The amendments enacted by c. 64 to the Workmen's Compensation Act increase the rates of compensation to children of a deceased workman who leaves no widow. The monthly rate to each child is increased from $12.50 to $15, and the total monthly maximum from $50 to $60. Provision is also made that where a relative or other suitable person acts as foster-mother in keeping up the household and caring for the children she may be allowed the same monthly payments of compensation for herself and the children as if she were the widow of the deceased workman. The former provision that in case of disability of a workman no compensation other than medical aid should be available to the workman for the first three days of disability has been qualified by a proviso that where the disability is of more than fourteen days' duration compensation shall be payable from the date of disability.

4. MANITOBA.

[It is hoped to publish this Summary in the next *Review*.]

5. NEW BRUNSWICK.

[*Contributed by* M. B. Dixon, Esq., K.C.]

Acts passed—92 : Public—49 ; Private—43.

Appropriation.—Act No. 1 provides $589,125 for civil government, and by No. 2 $535,406 for roads and bridges and public works is provided.

Schools.—Act No. 7 amends the Schools Act in regard to qualification for voting at school meetings and also provides for married women voting.

School Books.—Act No. 9 provides for free distribution of school books.

Widows' Relief.—By Act No. 12, a widow may apply to the Court for relief where the husband dies leaving a will by the terms of which the widow would receive less than if he had died intestate. The Court may make such allowance as may be just and equitable.

Highways.—Act No. 16 amends the Highway Act, by providing that between certain dates motor-vehicles shall not be allowed on the highways.

Children of Unmarried Parents.—By Act No. 19 officers, clerks and servants are to be appointed by the Lieutenant-Governor in Council; appropriation is to be made for expenses of administration; the duties of Provincial Officers are defined. The mother of a child born out of wedlock is to apply to the Provincial Officer for advice. Where putative father cannot be found, the child may be dealt with as a neglected child within the meaning of the Children's Protection Act. The Lieutenant-Governor in Council may make rules and regulations. The Judge, on application made to him, may make an order of affiliation. In certain cases the mother of a child may be ordered to contribute towards maintenance of the child. Action may be brought against father of child to recover amount of any charges and expenses ordered to be paid by him.

Probate Courts. — Act No. 27 amends the Probate Courts Act by providing for proof of a will where all the witnesses are dead or reside out of the Province.

The Acts not above referred to are of minor importance and chiefly slight amendments to other Acts.

6. NOVA SCOTIA.

[It is hoped to publish this Summary in the next *Review*.]

7. ONTARIO.

[*Contributed by* JOHN D. FALCONBRIDGE, ESQ., K.C.]

Acts passed—136: Public—81; Private—55.

The second session of the sixteenth Legislature of Ontario began on February 10, and ended on April 14, 1925. The annual volume of statutes contains 450 pages, of which 232 are occupied by public Acts.

Date of Commencement of Statutes.—The Statutes Act, R.S.O. 1914, c. 2, s. 5, provides that the Clerk of the Legislative Assembly shall endorse on every Act the day, month and year when it was assented to. Prior to 1918 subsection 2 ran:

(2) Such endorsement shall be taken to be a part of the Act; and the date of the assent . . . shall be the date of the commencement of the Act if no later commencement is therein provided.

In 1918 subsection 2 was amended to read:

(2) Such endorsement shall be taken to be a part of the Act and unless otherwise provided therein the Act shall come into force and take effect on the sixtieth day after the date of the assent. . . .

In 1925 (c. 6) subsection 2 was amended to read:

(2) Such endorsement shall be taken to be a part of the Act and unless otherwise provided therein the Act shall come into force and take effect on the sixtieth day after the day of the prorogation of the session of the Legislature at which the Act was passed. . . .

The rule is generally rendered illusory by inserting at the end of an Act a provision that "This Act shall come into force on the day upon which it receives the Royal Assent," and in the very volume now under review the Legislature with wearisome iteration takes away with one hand what it gives with the other.

Electoral Districts. — The Representation Act (c. 7) divides the Province of Ontario into 112 electoral districts, each entitled to return one member to the Legislative Assembly. Under the former Representation Act the Assembly consisted of 106 members. Under the new Act the representation of the cities is substantially increased relatively to the representation of the rural parts of the Province. Unkind enemies of the Government, of whom I am not one, have described the new Act as a gerrymander. By exception it is provided that "this Act shall come into force and have effect from and after the dissolution or end of the present Legislative Assembly."

Sessional Allowance. — S. 68 of the Legislative Assembly Act is amended (c. 8) by striking out the figures "$1,400" and inserting in lieu thereof the figures "$2,000," so that the section will read:

68. In every session of the Legislature there shall be allowed to each member attending the session $20 for each day's attendance, if the session does not extend beyond thirty days, and if the session extends beyond thirty days, then there shall be payable to each member attending such session a sessional allowance of $2,000.

It is provided that the amending Act shall come into force on the day upon which it receives the Royal Assent (March 11, 1925) and that the section in question shall have effect as from February 10, 1925.

Salaries of Ministers.—The annual salaries of eleven ministers, members of the Executive Council of the Province, are increased (c. 9) from $6,000 to $8,000, the member of the Council holding the recognized position of First Minister to receive in addition $4,000 per annum (instead of $3,000 as heretofore). It is provided that this Act "shall come into force on the day upon which it receives the Royal Assent, and shall have effect as from the 1st day of November, 1924."

Succession Duty.—It is provided (c. 13) that where an estate includes securities of the Province of Ontario issued under provisions which exempt them from succession duty then, notwithstanding any declaration or provision made by will or otherwise by the deceased, the Treasurer of Ontario may require that such securities, or a sufficient part thereof, shall be delivered to him and applied on account of the succession duty payable in respect of such estate at the current market value thereof at the death of the decedent, or at the price paid by him prior to March 1, 1925, whichever may be greater, or at such other price as may be determined by a surrogate judge. This seems to be a neat plan for compelling the surrender of duty-free bonds for redemption. The same Act amends the Succession Duty Act with regard to two phases of the prevailing situation, whereby the same assets of an estate may be liable

to pay estate, legacy or succession duty in two or more different countries or provinces. The provisions in question read as follows:

9 (1). Where the Treasurer is satisfied that in any part of the British Dominions other than Ontario, or in any foreign country to which this section applies, any estate, legacy or succession duty is paid in respect of property which is also chargeable with duty in Ontario, an allowance for the duty so paid shall be made from the amount payable to this Province with respect to the same property; Provided that any such allowance shall be made only as to such part of the British Dominions or as to such foreign country to which the Lieutenant-Governor in Council shall have extended the provisions of this section, and such allowance shall be in accordance with such terms or understanding as the Treasurer may deem proper to make or have with such part of the British Dominions or such foreign country.

10 (2). No property in Ontario belonging to any deceased person at the time of his death or held in trust for him, whether such deceased person was at the time of his death domiciled in Ontario or elsewhere, shall be transferred, paid or given to the person entitled thereto until the duty, if any, is paid or security given therefor, and any corporation or person allowing such property to be so transferred, paid or given contrary to this subsection shall be liable for such duty.

Taxes.—Provision is made by an Act called the Luxury Tax Act (c. 14) for a tax on the sale of beverages (beer, wine, etc.) varying from 5 cents to 10 cents a gallon, according to the nature or alcoholic content of the beverage. A tax at the rate of 3 cents a gallon on gasolene purchased is imposed (c. 28) "for the purpose of providing for a fair contribution by the users of roads in Ontario towards the cost of the construction and maintenance thereof."

Land Titles.—An Act which amends the Land Title Act in various respects (c. 41) provides, *inter alia*, as follows:

3 (3). After the expiry of ten years from the date of registration of any person as the registered owner, with a possessory title only, the then registered owner of the land may, upon the payment of the prescribed fees, apply to the proper master of titles to be entered as owner with an absolute or qualified title, as the case may be, and such master may either forthwith, or after requiring such evidence to be furnished and notices to be given as he deems expedient, register such applicant as owner in fee simple with an absolute title or qualified title, as the case may be, subject to such encumbrances, if any, as the condition of the title requires.

It should be noted that the Ontario Land Titles Act is based chiefly upon the English Land Transfer Act, 1875, unlike the Land Titles Acts of the western Provinces, which are based upon the Australian Torrens Title Acts.

Workmen's Compensation.—One phase of the question whether compensation should be paid in Ontario in respect of an accident happening outside Ontario was dealt with by an amendment of 1922.[1] In 1925 the Workmen's Compensation Act is further amended (c. 43) by the addition of the following provision:

6 (2*a*). No compensation shall be payable under this Part, whether the workman is resident within or without Ontario, where the accident happens outside Ontario and the employer's place or chief place of business is situate outside Ontario and the workman is entitled to compensation under the law of the place where the accident happens, unless

(*a*) the workman's place of employment is within Ontario and he is at

[1] See *Journal of Comparative Legislation*, Third Series, vol. vi, pt. ii, p. 49.

the time of the accident without Ontario merely for some casual or incidental purpose connected with his employment within Ontario; or

(*b*) the accident happens on a steamboat, ship or vessel, or on a railway, and the workman is a resident of Ontario and the nature of the employment is such that in the course of the work or service which the workman performs it is required to be performed both within and without Ontario.

Marriage.—The Marriage Act is amended (c. 45) by requiring that an applicant for a marriage licence shall not only make an affidavit as to his or her own age, and as to the age of the other contracting party, as required hitherto, but shall also produce and file either a copy of the registration of birth of the other party or an affidavit made by the other party or by a member of his or her family having personal knowledge of the facts. It is also made an offence to solemnize a marriage within three clear days after the date of the marriage licence.

Landlord and Tenant.—The Landlord and Tenant Act is amended (c. 47) by the addition of the following:

23 (2). Where the landlord refuses or neglects to give a licence or consent to an assignment or sub-lease, a judge of the County or District Court, upon the application of the tenant or of the assignee or sub-tenant, made by way of originating notice according to the practice of the Court, may make an order determining whether or not the licence or consent is unreasonably withheld, and where the judge is of opinion that the licence or consent is unreasonably withheld permitting the assignment or sub-lease to be made, and such order shall be the equivalent of the licence or consent of the landord within the meaning of any covenant or condition requiring the same and such assignment or sub-lease shall not be a breach thereof.

Medicine and Surgery: Drugless Practitioners.—In 1923 the Ontario Medical Act was amended so as to permit a person, not being a legally qualified medical practitioner, who was practising in Ontario as an osteopath, chiropractor or drugless healer, to free himself from liability under the principal Act by filing a prescribed statement in the office of the Provincial Secretary.[1] In 1925 the amendment of 1923 is repealed (c. 48) "and notwithstanding anything in the Interpretation Act contained such repeal shall have effect as if the said Act had never been enacted and all acts done and proceedings taken under and by virtue of the said Act are declared to be void and of no effect." There is also a provision that any person not registered pursuant to the principal Act who uses the title "Doctor," "Surgeon" or "Physician" or any affix or prefix indicative of such titles as an occupational designation relating to the treatment of human ailments incurs a penalty.

The next following Act (c. 49) is an Act to provide for the registration of drugless practitioners. "Drugless practitioner" is defined to mean and include every person who practises or advertises or holds himself out in any way as practising the treatment of any ailment, disease, defect, or disability of the human body by manipulation, adjustment, manual or electro-therapy or by any similar method. Provision is made for the appointment by the Government of a Board of Regents, with power to make regulations for the admission of drugless practitioners to practise in Ontario and for their registration, prescribing their qualifications, maintaining a register of persons admitted to practise, prescribing the discipline and control of registered drugless practitioners, designating

[1] See *Journal of Comparative Legislation*, Third Series, vol. vii, pt. ii, p. 55.

the manner in which any registered person may describe his qualification or occupation and allowing the use of any affix or prefix not forbidden by the Ontario Medical Act which in the opinion of the Board will correctly describe the qualification or occupation of such person.

Company Law.—The Ontario Companies Act is amended (c. 53) in various particulars. *Inter alia*, there is the remarkable provision by which a director absent from and resident outside Canada, if authorized by the by-laws of the corporation, may " appoint and authorize any shareholder holding the number of shares fixed as the qualification of a director to attend and vote, as fully and effectually as if such director were personally present, at any meeting of directors held within the Province of Ontario, and to accept any notice of such meeting."

Assessment.—The Assessment Act is amended (c. 62) by increasing from $200 to $400 the exemption from assessment for municipal taxation in respect of income derived from personal earnings granted to a householder or head of a family for each dependent child and for any dependent father or mother.

Ontario Temperance Act.—There is the usual annual crop of amendments of this Act, but it seems useless to mention the details of the legislative tinkering in view of the fact that late in the year 1926 the Government appealed to the country on a policy of Government sale and was returned by a large majority. It appears likely therefore that a completely revised version of the Ontario Temperance Act will be enacted by the Legislature in the spring of 1927.

Corn Borer.—Authority is granted (c. 74) to the council of any city, town, village or township to provide for the appointment of an inspector, who, under the supervision of the Provincial Entomologist, shall adopt means for controlling and eradicating the insect known as the European corn borer.

Wolf Bounties.—While the name of the corn borer would seem to indicate that he is an immigrant from Europe, an amendment of the Wolf Bounty Act (c. 77) is evidence that there are still Canadian wolves at large. In the part of Ontario in which I write, however, if one desires to see a wolf, he must go to the Zoo.

United Church of Canada.—One private Act should be mentioned, because of its great public interest, not to mention its contentious character, namely, the United Church of Canada Act (c. 125). The Parliament of Canada had in 1924 (c. 100) passed an Act bearing the same title, by which, so far as it lay within the power of Parliament to do so, it constituted the Presbyterian Church in Canada, the Methodist Church and the Congregational Churches a body corporate and politic under the name of the United Church of Canada (including all the congregations in connexion or communion with any of the said Churches except non-concurring congregations, that is, such congregations as should decide, by a majority of votes of persons " who are in full membership and whose names are on the roll of the church," not to enter the Union). The Dominion Act also provided for the appointment of a commission of nine members to determine " a fair and equitable share " of the property of the parent church or churches to which the non-concurring congregations should be entitled. Application was made in 1924 to the Provincial Legislatures in order that by concurrent legislation the title to congregational and other property situate within the respective Provinces should be assured, and several Legislatures in

that year passed Acts accordingly.[1] No Act was passed in Ontario, however, until 1925, and the Ontario Act (c. 125) contained some special provisions designed for the protection of congregational minorities left without church accommodation and for the appointment of property held in common by congregations which entered and congregations which did not enter the United Church—the opposition within the Presbyterian Church being stronger in Ontario than in the other Provinces. The Act appointed the Ontario Church Property Commission, consisting of three members (the present writer being named as chairman), to which applications for relief might be made. In all 155 applications were made to the commission, the greater number being made on behalf of non-concurring Presbyterian minorities. The commission did its best to grant relief in accordance with equitable principles, but was much hampered by the narrow limits of its jurisdiction as defined by the Act.

8. PRINCE EDWARD ISLAND.

[It is hoped to publish this Summary in the next *Review*.]

9. QUEBEC.

[*Contributed by the* Hon. Mr. Justice Fabre Surveyer.]

Public Acts—90; Private—81.

Payments to the Crown.—By c. 3 every right of action for the recovery of sums of money theretofore or thereafter paid through error of law to the Government of the Province as duties or taxes, imposed by any Act of the Legislature, is absolutely extinguished if suit has not been taken within six months from date of payment.

Revised Statutes.—By c. 8 the Commission charged with the revision and consolidation of Statutes of a general and permanent character is instructed to incorporate in its report the Statutes of a public and general nature which have come into force since the printing of its report was begun; it may correct, without changing the legal effect, any misprint or error, whether of commission or of omission, or any contradiction or ambiguity in its original report; it shall prepare the schedules of the Statutes which will be repealed from and after the day when the Revised Statutes shall have come into force, and cause the revised roll to be printed, in French and English. The Cabinet may, after the deposit of the Statutes with the Clerk of the Legislature, declare by proclamation the date from and after which the same shall come into force, under the name of the "Revised Statutes of Quebec, 1925." The repeal of Acts mentioned in the schedule shall not revive prior enactments repealed by such Acts, or have any retroactive effect. The Revised Statutes shall not be held to operate as new law; but shall be construed as declaratory of the law as contained in the repealed Acts; nevertheless if they differ from the said repealed Acts, their provisions shall prevail as respects all subsequent transactions, matters and things. If upon any point there be a difference between the English and the French versions, that which is most consistent with the Acts consolidated shall prevail.

[1] See, for example, the review of the Manitoba legislation of 1924: *Journal of Comparative Legislation*, Third Series, vol. viii, pt. ii, pp. 92–4.

Suits against Justice of the Peace.—By c. 10, s. 17, any justice of the peace, officer or other person fulfilling any public duty, and sued in damages by reason of the acts committed by him in the execution thereof, may, at any time within one month after the service of the notice mentioned in art. 88 of the Code of Civil Procedure, offer to pay a compensation to the party complaining or his advocate by actual tender thereof; and, if the same be not accepted, may plead such offer in bar to the action brought against him, with any other plea, and deposit the amount offered.

By s. 18 no action shall be brought against a judge of the sessions, police magistrate, district magistrate, justice of the peace or any officer whatsoever, by reason of any act done in virtue of a statutory provision of Canada or of the Province, for the reason that such provision is unconstitutional.

Pari-mutuel.—By c. 25, s. 1, the Cabinet may determine the conditions upon which bets, wagers or pools may be received, recorded or sold under the system known as the *pari-mutuel* system, whenever, at a horse-race meeting, such races consist of trotting or pacing races; and require and regulate the use of apparatus to determine automatically the total amount of the bets under the *pari-mutuel* system and the number of persons attending a race meeting.

Taxes upon Corporations.—By c. 28, s. 1, "doing business in this Province" and "carrying on any undertaking, trade or business therein," when these expressions relate to an incorporated company, mean: exercising any of its corporate rights, powers or objects in the Province. Nevertheless the taking of orders, the purchase or the sale of merchandise and other effect, by means of travellers or by mail, shall not be interpreted as being the exercise of any of the corporate rights, powers or objects of the company in the Province, if the company has no agent or representative resident in the Province and has no place of business in the Province; but, in such case, the burden of proving that it has no agent or representative resident in the Province and that it has no place of business in the Province shall fall upon the company.

"Paid-up capital of the company," when it relates to shares without any nominal or par value, means the capital represented by the property of the company, after deducting its debts.

Domanial Forests.—By c. 30 the Cabinet may select and reserve certain vacant areas of Crown lands in order to constitute same into domanial forests which shall serve specially as reserves for the requirements of forest industries. The Minister of Lands and Forests shall administer them; he may exploit them by having lumbering done under control or by contract, under the direction of the forest service, or lease certain portions for a limited period of time, in which case lumbering shall be conducted as indicated by the forest service.

Reforestation.—By c. 32 an annual credit of $100,000 is placed at the disposal of the Minister of Lands and Forests in order to promote reforestation works, such as the gathering of forest seeds, maintenance of nurseries, purchase of land and its reforestation, the distribution of plants, as well as the planting of forest and ornamental trees.

Order of Agricultural Merit.—It is created, by c. 33, for the purpose of encouraging agriculturists by honours and rewards, and to acknowledge services rendered to agriculture. There are four degrees of merit: "specially distinguished," which entitles to the decoration of Commander,

" distinguished merit," which gives one the title of " Officer," " great merit " given to " knights," and " merit." Decorations and diplomas are awarded to those taking part in the competitions of agricultural merit organized each year for the whole Province or for a part thereof, in order of merit and upon the report of the judges appointed by the Minister of Agriculture and selected from the commanders or officers of agricultural merit and from the professors of the schools of agriculture. They may also be awarded to any person who has rendered services to agriculture, in farming or in industries connected therewith, in a public occupation or in scientific or official missions, by agricultural research work, by works or publications on agriculture, by creating scholarships or endowments to encourage instruction in agriculture.

Protestant Schools in and around Montreal.—In accordance with the report of a Commission appointed by the Cabinet, the Montreal Protestant Central School Board is incorporated, by c. 45, with jurisdiction over Protestant schools of Montreal and of ten adjoining municipalities, and of any school municipality hereafter annexed thereto. The Board consists of seven commissioners selected in the manner provided by the Act, who shall elect a chairman from among the members thereof, and a secretary-treasurer. Every appointment made must be communicated in writing to the Director of Protestant Education in the Province. The first duty of the Central Board is to establish the actual assets and liabilities of all the local boards forming part of the territory over which it has jurisdiction and to make out a detailed statement of the sums required for the payment of interest and sinking funds of the loans. From and after July 1, 1925, there is imposed a uniform tax of ten mills in the dollar upon all real estate belonging to Protestant property owners and of twelve mills in the dollar upon all real estate inscribed on the neutral panel of any municipality under the jurisdiction of the Central Board. The expenses for the acquisition of land or buildings or for the construction or reconstruction of school houses or of other buildings shall be incurred by a local board only if approved by the Central Board. The latter may borrow and guarantee or become security for the loans, debts and obligations contracted by each of the local boards affected by the Act. It may also give and accept bonds or guarantee for the payment of any sum of money due by or to it. Any dispute between the Central Board and a local board shall be submitted to the Cabinet, from the decision of which final appeal may be taken before the Protestant Committee of the Council of Public Instruction. Every dispute between two or more local boards shall be decided by the Central Board, with an appeal to the Cabinet.

Jury Act.—C. 51 applies to criminal matters only, except where the context otherwise clearly requires. To qualify as a juror one must be a male, of the full age of twenty-one years, a British subject by birth or naturalization, domiciled in a municipality situated wholly or in part within a radius of forty miles (sixty, for the district of Abitibi) of the place where the Court is held, and entered in the valuation roll for the municipality in which he is domiciled as proprietor, tenant or occupant of real estate of the minimum value fixed by the Act. The following are disqualified from serving as grand or petit jurors : aliens ; British subjects born outside of the Province and having been domiciled therein less than three years ; naturalized British subjects who have been domiciled in the Province for less than ten years from the date of

their naturalization; persons afflicted with blindness, deafness, or any other physical or mental infirmity incompatible with the discharge of the duties of a juror; persons who are under arrest or under bail charged with an offence punishable by six months' imprisonment or more, or who have been convicted thereof; those who do not speak one of the two official languages fluently. The following are exempt from service: members of the clergy; members of the Privy Council, or of the Senate, or of the House of Commons of Canada; members of the Executive Council, of the Legislative Council or of the Legislative Assembly; judges of the Supreme Court of Canada, of the Court of King's Bench, of the Superior Court and of the Circuit Court; judges of the sessions, district magistrates and recorders; officers and employees engaged in the administration of justice; officers of His Majesty's Courts; provincial and municipal constables and detectives; train dispatchers; firemen; persons more than sixty-five years of age; and those who have been summoned as jurors and have appeared as such before the Court of King's Bench, for the five years after such appearance.

The Court or judge may, according to circumstances and if the public interest allows of it, grant exemption to other persons upon a written request containing the reasons for exemption.

The Cabinet may appoint, in each judicial district, a special officer to examine and revise the list of grand and petit jurors, or to renew it, as the case may be, and such persons as it considers necessary to assist such special officer, and fix their remuneration. Before entering upon their duties, such officer and persons must take, before the Clerk of the Crown, the oaths of allegiance and of office. The special officer, with the help of information received from the secretary-treasurers of the municipalities, makes one jury list for each district, which includes both grand and petit jurors; he revises the same in the month of December of alternate years. The lists, or the revisions thereof, are approved by the Attorney-General.

Whenever jurors have to be summoned, the sheriff of the district prepares a panel and he summons the jury when instructed to do so. In the districts where the summoning of mixed juries is authorized, he enters, in equal numbers, jurors speaking the French and jurors speaking the English language. In other cases, the judge may order a mixed jury to be summoned. A grand jury panel comprises sixteen names, the last four being supplementary jurors. The panel of petit jurors comprises fifty-two names, twelve of which are supplementary, and if it is a mixed jury, seventy-two names, twenty of which are supplementary.

Every person summoned to serve on a jury receives five dollars for each day of absence; if domiciled elsewhere than where the Court is sitting he receives in addition three dollars a day plus travelling expenses. Neglect to appear in obedience to a summons makes a juror liable to a fine of $5 for each offence but not exceeding in the aggregate $50. Such fines are imposed in open Court. Clerks or secretary-treasurers of municipalities who neglect to transmit to the special officers desired information are liable to a fine of $20 and a further fine of $5 per day, subsequent to the service upon them of the information of complaints.

Asylum for Insane Prisoners.—After the same is completed, the Cabinet may order that an insane person then interned, under his warrant, in

an insane asylum of this Province, after sentence, or while awaiting appearance or trial, or in consequence of an order of a Court or judge or of the decision of a jury, be transferred to the asylum authorized by this Act (c. 52), to be kept there until he is released or sent to such place of confinement as may be suitable in order that justice may be rendered to him, according to law; or arrange with the Minister of Justice of Canada that the prisoners transferred from a penitentiary and then interned in an insane asylum in the Province under the Canada Penitentiary Act (R.S.C., c. 147, ss. 53–60) be interned in the asylum authorized by this Act.

On the report of the medical superintendent or of an assistant, certifying that an insane person confined in the Asylum for Insane Prisoners has recovered the use of his reason, the Lieutenant-Governor shall, on the recommendation of the Provincial Secretary, order that such prisoner be discharged, or that he be reconveyed to jail to stand his trial or to undergo his sentence, as the case may be.

Bar Act.—C. 56 enables law students to dispense from attending law offices during their legal studies, provided they serve one year of clerkship after having taken their law degree.

Cities and Towns.—By c. 59 municipalities may bid upon and acquire real estate within their boundaries sold for taxes or by the sheriff, or by a similar process, provided their bid does not exceed the amount of the taxes, in capital, interest and costs, and of any claim ranking with or ahead of the claim for taxes. They are not obliged to immediate payment.

Municipal Corruption. — By c. 63 the council of any city or other municipality, by resolution thereof, or fifty electors of any city or other municipality, by petition to the judge or judges of the Superior Court, in term or in vacation, may request such judge or judges to order an investigation to be made into any matter mentioned in the resolution or petition, and relating to a malfeasance, breach of trust or other misconduct on the part of one or more members of the council or officers of the municipality, or of any person or persons having a contract or contracts therewith, or, in case the council of any city or other municipality sees fit to cause inquiry to be made into or concerning any matter connected with the government of the city or other municipality or the conduct of any part of the public business thereof, and if the council or the electors at any time petition the said judge or judges to order an inquiry, the judge or judges may order the holding of an inquiry by one of his or their colleagues whom he or they shall designate in the order.

The petition shall not be considered unless it states the accusations, actions or facts, in a precise manner, which alone shall form the object of the inquiry.

The petition shall be submitted to the chief justice or acting chief justice of the Superior Court, residing within the limits of the appellate division which comprises the district in which the municipality is situated, the council or electors whereof ask for the inquiry, or, in the event of the absence or incapacity to act of the chief justice or acting chief justice, as the case may be, to two judges of the Superior Court in the same appellate division.

Recorders.—By c. 64 no council of a municipality in which a Recorder's Court is established may reduce the salary of such recorder.

Companies Act. — By c. 66, if a transmission of shares or other securities of a company takes place by virtue of any testamentary act or instrument or in consequence of an intestacy, and if the probate of the will or of the testamentary act or instrument or the letters of administration or other judicial or official instrument under which the title, whether as beneficiary or trustee, or the administration of the personal estate of the deceased is claimed to vest, purports to be granted by any Court or competent authority of the Dominion of Canada or of Great Britain or Ireland or of any other of His Majesty's dominions or of any foreign country, the probate of the said will or the said letters of administration or the said other judicial or official instrument of an authenticated copy thereof or official extract therefrom shall, together with a declaration in writing showing the nature of such transmission and signed and executed by the person or persons claiming by virtue thereof, be produced and deposited with the manager, secretary, treasurer or other officer of the company named by the directors for the purpose of receiving the same.

Such production and deposit shall be sufficient authority to the directors, subject to the prescriptions of the law of the Province respecting succession duties, for paying the amount or value of any dividend, coupon, bond, debenture, or obligation or share, or transferring or consenting to the transfer of any bond, debenture or obligation or share, in pursuance of, and in conformity with, such probate, letters of administration or other such document aforesaid.

The other amendments deal with matters of detail.

Co-operative Syndicates.—By c. 69, co-operative syndicates for consumption, production, credit, provident and any other economical purposes may be formed at any place in the Province. The board of supervision of such co-operative syndicates must, at least once a year, cause all the operations of the association and its reports to be verified by an inspector of a federation, at the cost of the syndicate, unless it has already been affiliated with a federation.

Workmen's Compensation Act.—C. 71 shall not apply, even if the contract of employment was made in the Province, to a workman injured through an accident happening outside of the Province, if the law of the country or of the province in which the accident occurs entitles the workman or his representatives to compensation, and if the employer had fulfilled his obligations and if the victim of the accident or his representatives has or have received compensation, under such law. The employee shall have the choice of the place where he may exercise his recourse.

Celebration of Marriages.—By c. 73, notwithstanding any general or special law to the contrary, all marriages, solemnized in the Province of Quebec prior to the coming into force of this Act, between persons professing the Jewish religion shall be valid, legal and uncontestable, if they have been solemnized or contracted in accordance with the rites or customs recognized and admitted by the said religion and irrespective of any irregularities affecting same, and even though the officer solemnizing the marriage had not obtained a licence from the Governor or the Lieutenant-Governor or had not the quality of British subject.

Adoption.—By c. 74 the adoption of a child of either sex shall be permissible only to those consorts who are living together. Adoption is, however, permissible to a widower or a widow who is childless at the

time of the adoption, or to an unmarried person, of the age of majority, provided that in both cases the adopted child is of the same sex as the adopter.

In the cases above provided, the adopter, who shall not be the husband, wife, brother, or sister of the adopted, must be at least twenty years older than the adopted and profess the same religious faith as that to which the latter belongs by baptism. The application for the adoption shall be made by the adopter by means of a petition addressed to a judge of the Superior Court of the district in which he has his domicile.

If the husband or wife of the petitioner is still alive and legally capable of doing so, he or she shall join in the petition, and in such case, after the adoption, the adopted child shall be considered to be the child of both. The petitioner who has no domicile in the Province must present his petition to the Superior Court of the domicile of the child whom he proposes to adopt.

The following persons only, being minors of either sex, may be adopted: illegitimate children, except in the case of their father or mother, or both, having actually undertaken the care, support and education of their child, or having declared in writing that they intend to undertake same; legitimate children, both fatherless and motherless, if no ascendants are caring for them; children whose father and mother, or the surviving parent, being incurably out of their mind, cannot take care of them, nor can any ascendant.

The annulment of the adoption may, if justified on very grave grounds, be pronounced by a judge of the Superior Court on the petition of the adopter or of the adopted.

The application for the annulment shall be made by means of a petition of the adopter or of the adopted, after notice to one or the other, as the case may be, or to any other person whom the judge shall designate.

Partnership.—By c. 76, amending art. 1880 of the Civil Code, the business of the partnership is to be conducted under a partnership name or firm in which use is made only of the names of the general partners, or of one or more of them, or of the name or names of the special partners.

10. SASKATCHEWAN.

[*Contributed by* R. W. Shannon, Esq., K.C.]

Acts passed: Public—70; Private—9.

Executions.—By No. 9 the lifetime of registered writs of execution and renewals thereof has been extended from two to six years.

Libel and Slander.—The Libel and Slander Act has been amended (No. 11) by the insertion of a new section providing that no action shall lie for a libel contained in a newspaper unless the plaintiff has given to the defendant in the case of a daily newspaper, five, and in the case of a weekly newspaper, fourteen, clear days' notice in writing of his intention to bring the same, specifying the language complained of.

Cities.—No. 18 is a revision and consolidation of the City Act, a voluminous measure of almost 600 sections, covering 190 pages.

Education.—An amendment (No. 29) to the Secondary Education

Act cancels the Government grant of 15 cents per diem for each non-resident pupil, payable to high-school districts, and in lieu thereof empowers the boards of such districts to charge fees, not only for non-resident pupils but also for pupils residing within the school district.

Co-operative Marketing Associations.—No. 37 is a new Act. Any ten or more persons resident in the Province may become incorporated, either with or without a capital dividend into shares, for the general object of marketing agricultural products on the non-profit co-operative plan, agricultural products being defined as including horticultural, dairy, live-stock, poultry, bee and farm products. Generally, the objects of an association incorporated under the Act are to undertake and carry on all kinds of businesses or operations connected with the marketing, selling, preserving, harvesting, drying, processing, manufacturing, canning, packing, grading, storing, handling or utilization of any agricultural product, produced or delivered to it by its members or the manufacturing or marketing of the by-products thereof. An association has power also to make contracts with its members for the sale or delivery for sale for any period of time, not exceeding seven years, of all or any part of their agricultural products or commodities, exclusively to or through the association or any of its agencies. The contract may provide for payment of specified sums as liquidated damages for breach of contract, and the Act declares that any such provision shall be valid and enforceable in the Courts of Saskatchewan.

Infants.—No. 42 amends the provisions of the Infants Act relating to guardianship. The father and mother, living together, are now joint guardians of their infant children with equal powers, rights and duties in respect thereof. On the death of either parent, the surviving parent is guardian, either alone where no guardian has been appointed by the deceased parent or jointly with any guardian so appointed. Either the father or the mother may, if under age by deed or if of full age by will, appoint one or more persons to be the guardian or guardians of an infant after the death of the appointer, if the infant be then unmarried; and where guardians are appointed by both parents they act jointly.

Adoption of Children.—A new subsection inserted in the Adoption of Children Act (No. 43) provides that if, upon an application for an adoption order, it appears to the judge that the child has lived since his earliest years with the applicant and has known no other parents, the judge may, in his discretion, dispense with the child's consent.

Chattel Mortgages.—By No. 55 the provisions of the Chattel Mortgage Act respecting assignments of book debts, accounts or debts to be incurred have been extended to include assignments by wholesalers as well as those by retailers.

Industrial Disputes.—No. 58 is a new measure, entitled the Industrial Disputes Investigation Act (Saskatchewan), 1926. The preamble sets forth (1) that the Industrial Disputes Investigation Act, 1907 (Dominion), does not apply to industrial disputes within the exclusive legislative jurisdiction of any province of Canada, and (2) that an amendment to that Act, made in 1925, provides that it shall *inter alia* apply to any dispute which is within the exclusive legislative jurisdiction of any Province and which by the legislation of the Province is made subject to the Act. The Act simply provides that the Dominion Act and amendments already made thereto shall apply to every industrial dispute

of the nature therein defined which is within or subject to the legislative jurisdiction of Saskatchewan, and the Lieutenant-Governor in Council is given power to adopt the provisions of any future amendments to the Dominion Act.

Improvements under Mistake of Title.—Another new measure (No. 61) —An Act respecting Improvements under Mistake of Title—provides that, where a person has made lasting improvements on land believing that he is the owner, he or his assigns shall be entitled to a lien upon the same to the extent of the amount by which the value of the land is enhanced by the improvements or shall be entitled or may be required to retain the land if the Court of King's Bench is of opinion or requires that this be done, making compensation for the land if retained.

11. NEWFOUNDLAND.

[*Contributed by* P. J. SUMMERS, ESQ., K.C., O.B.E., *Deputy Minister of Justice.*]

Highroads.—C. 5 creates a Highroads Commission to be appointed by the Governor in Council. The Commission consists of the Government Engineer, who is Chief Commissioner, and of three others, all of whom may hold office for two years, subject to removal at pleasure, but who may be reappointed.

The Commission is given control of such existing highroads as the Governor in Council may designate. It is granted power to construct and maintain highroads and to make regulations respecting their use and control. The Commission may also acquire property which thereupon becomes vested in the Crown under the control of the Commission. It may sell or dispose of the same ; may direct any highroad to be closed or substituted for another no longer required, and may afforest or dispose of such disused highways in any way.

S. 5 provides compensation to owners of land expropriated. In case of disagreement as to amount between the owner and the Commission, the amount shall be ascertained by the Chief Commissioner, an assessor appointed by him and another by the owner of the property. This Board shall not sit as arbitrators, but as experts. Its awards will be final and must be paid within thirty days. The property may be taken before compensation is made.

The Commission is directed to have a " Highroad Land Plan " made and deposited in the Department of Agriculture and Mines, showing the lands acquired by the Commission. The Commission is given power to ascertain the boundary lines on highroads ; to remove any building, fence or other erection interfering with the safety or convenience of the travelling public.

The Commission may construct highroads and bridges through municipalities, subject to the consent in St. John's of the Municipal Council, and may arrange with the Council the apportionment of the cost. The Commission may also enter into an agreement with the corporation of any municipality for the construction of pavements or roadways of greater width than those in existence. Municipalities are not permitted to close or divert any road giving access to a highroad without the consent of the Commission. The Commission is given the powers of any municipal corporation over highroads passing through

municipalities; also the power to remove obstructions. Municipalities are forbidden to lay sewerage, water or other pipes on highroads without the consent of the Commission; light and power wires may be carried along highroads subject to the consent of the Commission. Penalties are imposed on persons using highroads closed to traffic, and persons using highroads while repairs are in progress do so at their own risk.

Persons injuring trees planted upon a highroad are subject to a penalty of $100, to be recovered summarily. The Commission may acquire lands adjacent to a highroad for the purposes of reafforestation.

All moneys voted by the Legislature to the Commission and all sums collected from any source by the Commission are to be placed in a bank approved by the Minister of Finance and Customs. Accounts of receipts and disbursements are to be kept by the Commission and audited by the Auditor-General, which accounts are to be rendered regularly to the Minister of Finance and Customs.

A month's notice is required before action can be taken against the Commission by any person for anything done by it in pursuance of the provisions of the Act, and such action must be taken within six months. A full and detailed report of the work of the Commission and of its receipts and disbursements is to be laid before the Legislature within ten days after the commencement of the session.

Any act of fraud committed by any member of the Commission, or by any contractor with the Commission, is declared to be a felony and to be subject to a penalty of not less than one year and not more than five years' imprisonment in the St. John's Penitentiary. Other offences against the Act are subject to a fine of twenty dollars, or in default to one month's imprisonment.

Highway Traffic.—C. 6 is a companion Act to the Highroads Act.

S. 2 defines, *inter alia*, "chauffeur," "vehicles" (public and private), "parking" and "Commission." The latter is the Highroads Commission appointed under the Highroads Commission Act, 1925.

S. 3 provides for the registration with the Commission by the owner of every motor-vehicle before operation. The Commission is given power to collect fees, give number plates, issue drivers' permits and licences and to take affidavits and depositions. Permits shall not be issued for motor-vehicles where the manufacturer's serial number or identification mark has been obliterated or defaced. The number plates must be exposed in a conspicuous position on all motor-vehicles, except bicycles. The defacing or altering of number plates and the use of such are prohibited. Sales of motor-vehicles are to be reported to the Commission within six days. Number plates shall be kept clean and always visible.

Tourists who are non-residents and who have complied with the laws of their own country with respect to the registration of motor-cars are not subject to the above provisions. Tourists who bring their cars into the Colony must report to the Customs immediately and may obtain a tourists' permit. If the car is kept in the Colony longer than three months (such term may be extended for two months by the Commission with the consent of the Minister of Finance and Customs), or if it is sold in the Colony, Customs duties must be paid. Sales of tourists' cars must be reported to the nearest Customs officer and the permit surrendered and duty paid. A fee of $5 is charged for a tourist permit.

Motor-cars in motion after sunset and before sunrise must carry

three lighted lamps, two of white four-candle power in front, and one on the back (red) of two-candle power, and one light while standing placed on the right side of the car which must be visible for two hundred feet, showing white to the front and red to the rear. Devices for eliminating glare may be permitted. Revolving lights are not permitted, but spot- or searchlights may be used.

Traction engines are required to carry a lamp. Every vehicle when outside St. John's is required to carry one light placed on the right side. Motor-vehicles must be equipped with efficient brakes, which may be inspected at any time by any police officer or by any officer appointed to carry out the provisions of the Act.

All self-propelled vehicles, except traction engines exceeding in weight 4,000 lb., shall be equipped with rubber tires and with noise mufflers. Unreasonable noise or smoke is not permitted. Horns must be sounded when necessary. Sleighs must carry at least two bells. No vehicle including load shall exceed in width 90 inches, except traction engines and threshing machines, which must not exceed 110 inches and loads of loose fodder.

No person shall drive a motor-vehicle on a highway without a licence or employ a person not licensed. The Commission will issue licences subject to Regulations. Chauffeurs must be physically fit, able to drive, and have a knowledge of motor-vehicles and of the rules of the road and are required to have a certificate from an examiner appointed by the Commission. Magistrates may declare unlicensed chauffeurs driving a motor-car disqualified for six months. Licences must be produced when demanded by police officers or others appointed by the Commission. A person convicted of an offence under the Act must produce his licence to the convicting magistrate, who shall endorse thereon particulars of the conviction. If the licence has been suspended, he shall take and hold it for the period of suspension. The Commission may also suspend or revoke any licence for a period not exceeding two years for serious misconduct or a gross violation of the Act or Regulations made under it.

Garages must be licensed and such licences may be suspended or cancelled by the Commission for infractions of the Act. The purchase and sale of second-hand cars must be reported to the Commission within six days. Motor-vehicles in the possession of second-hand dealers or persons conducting a garage business, for more than two weeks, must be reported to the Commission.

The speed rate must not exceed twenty miles per hour within a city, town or village; ten miles at street crossings and curves, when passing other vehicles and on bridges, and twenty-five on highways outside a city, town or village This section does not apply to the Fire Department answering fire alarms.

Double pecuniary penalties are provided for reckless driving or driving with danger to the public, and for driving anywhere at any time beyond forty miles per hour, and imprisonment in addition, not exceeding thirty days for the first offence and not exceeding six months for a second or subsequent offence.

Racing on highways is prohibited.

Vehicles, except those equipped with solid tires, cannot be operated on a highway at a greater speed than fifteen miles per hour. Public vehicles of the same class cannot exceed twenty miles per hour, and

vehicles of 8,000 lb. in weight cannot exceed ten miles per hour. Speed over bridges may be limited by the proper authorities to five miles per hour. In such cases notice must be fixed on the bridge to that effect.

S. 28 regulates the weight and load of vehicles which shall not be operated on a highroad without a permit from the Commission. Permits must be granted for the moving of heavy objects, subject to certain conditions set forth by the Commission.

During the months of April and May commercial motor-vehicles with a capacity of over 1,000 lb., and all others exceeding 2,000 lb., shall not carry more than half loads. Peace officers may take any vehicle which they believe to be overloaded to a weighing machine. A commercial vehicle may carry a sign showing the gross weight it is permitted to carry.

Traction engines not exceeding 20,000 lb. may be used subject to a speed of six miles per hour. They must have driving wheels of 12 inches for every 4,000 lb. capacity, and they are also subject to other restrictions respecting cleats or flanges, and to the strengthening and repairs of damages caused to any bridge.

Rules of the Road.—When approaching a crossroad, the person to the left hand of the other vehicle has the right of way, the same when meeting on a highway. Vehicles overtaking another shall turn to the right, the vehicle overtaken shall turn out to the left, allowing the overtaking party one-half of the road.

Police, fire and mail vehicles and ambulances have the right of way over all other vehicles. Precautions are to be taken to prevent the frightening of horses by motor-vehicles. A motor-vehicle shall not be parked on a highway except on the left side thereof, facing in the direction in which it was proceeding.

Part IX of the Act deals with prohibitions and responsibility for accidents. The depositing of rubbish on highways is prohibited. In case of accident, every person directly or indirectly responsible is required to remain at the scene and render assistance and to give his name and address, and the name and address of the owner of the vehicle in writing to anyone sustaining injury by reason of the accident, and the employer of a chauffeur may also be liable if present in the car at the time of the accident. The onus of proof that loss or damage did not arise from negligence or improper conduct is placed on the owner or operator of the motor-vehicle. No person under seventeen may operate a motor vehicle, and no person over seventeen without a licence. No person may employ anyone under seventeen to operate a motor-vehicle, or an unlicensed person. No intoxicated person is permitted to drive a motor-vehicle under an additional penalty of having his licence suspended for three months for the first offence, and not less than three and not more than six for a second offence, and for a third or subsequent offence cancellation of his licence and disqualification from holding licence for not less than one year and not exceeding two years.

Power to make all necessary regulations subject to approval by the Governor in Council is conferred on the Commission, regarding the issue, renewal and transfer of licences and permits and the fees to be paid for same, and respecting the sale and hire of motor-vehicles. The Commission shall half-yearly pay over to any municipality one-half of the fees paid to it by any persons residing in such municipality.

Large powers of arresting without warrant and of impounding and

detaining motor-vehicles are conferred on police constables and persons entrusted with the carrying out of the provisions of the Act.

Offences against the Act may be tried summarily, action to be taken within ten days. No action for damages occasioned by a motor-vehicle can be taken after six months from the time when the damage was sustained. All penalties are to be paid to the Highroads Commission to be applied to its general purposes.

S. 66 fixes the penalties for violation of the various sections of the Act, and a penalty where none is provided of $10 for the first offence, $20 for a second, $30 for a third, and $50 for any subsequent offence.

S. 70 fixes the time during which licences may be suspended by magistrates for violations of the Act.

Special criminal provisions are provided in Part XIII of the Act. For example, s. 71 provides that: (1) Wanton or furious driving causing bodily harm is an indictable offence, subject to a penalty of two years' imprisonment. (2) Taking car without owner's consent is an offence triable summarily, subject to a fine not exceeding $500, or to imprisonment not exceeding twelve months, or to both fine and imprisonment. (3) Driving while intoxicated, for the first offence imprisonment not exceeding thirty days and not less than seven; second offence, imprisonment not exceeding three months and not less than one; and for a subsequent offence, imprisonment not exceeding one year and not less than three months.

An appeal from any summary conviction to the Supreme Court in St. John's or on circuit will be granted on the applicant giving, in St. John's three days' notice of his intention to appeal, and elsewhere ten days', and on his entering into recognizance with sufficient sureties to prosecute the appeal and to abide by the judgment of the Court.

Woman's Suffrage.—C. 7 is an Act to amend c. 3 of the Consolidated Statutes of Newfoundland (Third Series), entitled "Of the Election of Members of the House of Assembly." This is the Woman's Suffrage Act, giving the right to vote for the election of members of the House of Assembly, and to be elected thereto, to women who are otherwise qualified and who have attained the age of twenty-five years.

House of Assembly.—C. 8 is a Redistribution Bill, which provides for the election of forty members of the House of Assembly in lieu of thirty-six, the present law. The Colony, excluding the Labrador, which remains unrepresented, has been divided into thirty-seven districts, each of which shall return one member to the House of Assembly, except Harbor Main, St. John's (East), and St. John's (West), which shall each return two members. The Act comes into operation after the dissolution of the present General Assembly.

Hotel Facilities.—C. 14 is an Act for the Confirmation of an Agreement between the Government and the Newfoundland Hotel Facilities, Limited. This Act confirms an agreement for the erection of an hotel in St. John's. The Company is granted free entry for all material for the original installation and furnishing of the hotel; exemption from taxation on stock; exemption from income-tax, business profits tax, and similar taxes for ten years.

The Company is granted a licence subject to the Alcoholic Liquors Act, 1924, at $100 for the first ten years, and at an addition of $100 for each succeeding year, not exceeding at any time $1,000.

The Government guarantees the payment of the principal of debenture bonds to the value of $450,000.

Municipal taxes are fixed for thirty years, namely, at $266·67 for the first six years, and at an addition of a similar amount for each successive period of six years up to thirty years.

The Company agrees to erect an hotel of one hundred and fifty rooms at a cost of not less than $700,000, and to have it in operation on May 1, 1926, and to deposit $25,000 as a guarantee of good faith.

The Government, in addition to free entry for material and exemption from taxes, grants a site for the hotel at the eastern end of the town, part of the site being the abandoned railway-terminus.

War Pensions.—C. 15 is an amendment to the War Pensions Act, 1922, to extend to July 31, 1925, the time within which applications may be made for pensions. It also enables the Pensions Commission to grant a bonus to children of deceased pensioners; to continue the additional pension upon the death of a married member of the Forces so long as he has minor children of a pensionable age; and to supplement the pensions allowed by the Imperial Ministry of Pensions to natives or residents of the Colony, members of the forces at the outbreak of war, while residing in the Colony.

S. 5 extends the bonus payments set forth in Schedules A and B to June 30, 1926.

Firearms.—C. 18 prohibits the purchase, possession, use or carrying of firearms without a certificate having been first obtained from the Inspector-General in St. John's, or a magistrate in places outside St. John's. Firearms are defined as including revolver, pistol or similar weapon. The Naval, Military or Air Service of His Majesty, and the Police Force, are not subject to the Act, nor are gunsmiths, dealers in firearms, carriers, rifle clubs, butchers engaged in humane slaughter of animals or persons possessing antique firearms.

Judicature and Juries.—C. 19 is an Act to amend C. 83 of the Consolidated Statutes, 1916 (Third Series), and Acts in amendment thereof. An amendment of the Judicature Act, (1) to enable cases of capital felony to be tried by one judge of the Supreme Court; (2) to make the law of England the law of this Colony as to right of appeal, reserved points and criminal cases, so far as the same can be applied.

The Jury Law is also amended as follows: ss. 4 and 5 raise the property qualification of grand jurors resident in St. John's from $2,000 to $5,000, and the rental qualification from $240 to $360. The rental qualification of petty jurors is increased from $50 to $120. In future 36 persons will be summoned instead of 23 as formerly, and from this 36, 23 will be drawn in open Court to serve as the grand jury for the session. Grand jurors are not required to serve more than once annually.

S. 9 provides the manner in which petty jurors shall be drawn and summoned for the trial of criminal cases. Petty jurors will now be drawn for criminal cases in the same manner as special jurors were formerly drawn. Heretofore the panel of petty jurors was summoned at the beginning of the session and served for the full session.

S. 14 raises the age qualification of grand jurors from 60 to 65.

S. 15 increases the fees process servers may charge and also the fees to be paid in stamps on the issue of every writ.

Public Safety.—C. 20, an Act to amend c. 52, Consolidated Statutes (Third Series), entitled Of Egress from Churches, Theatres, and other

Buildings, is practically a new Act. It confers power on the Inspector-General, the Government Engineer, and the City Engineer to enter any place of public resort at any reasonable time to see that the provisions of the Act are being observed. Every place of public resort must be substantially constructed and supplied with safe means of ingress and egress. The Inspector-General has power to keep the aisles, galleries and passages of any building used as a place of public resort free and unobstructed. Liability is placed on the owner, occupier or manager, who are declared to be guilty of an offence against the Act, if any of its provisions are contravened.

St. John's Dry Dock.—C. 22 empowers the Governor in Council to enter into a contract with any responsible firm or corporation for the repair or reconditioning of the St. John's Dry Dock, and further to raise the sum of $500,000, if the sum of $675,000 earmarked for that and incidental purposes in the 1924 loan should not prove sufficient.

Shipbuilding Bounties.—C. 23 is an Act Respecting the Encouragement of Shipbuilding and Rebuilding, and provides for the payment of bounties in respect of ships built, equipped and registered in the Colony, of from ten to twenty dollars per ton and upwards according to tonnage and classification.

Ship Inspection.—Under c. 24 the Governor in Council is given power to appoint inspectors, whose duty it shall be to inspect the hulls, machinery and equipment of ships after the occurrence of any event, whereby the hull, machinery or equipment is in any material degree injured, strained or weakened; also to make sealing ships, passenger ships and boats used in connexion therewith subject to inspection.

Sealing ships must be prepared for the sealing industry and inspected within three months of the commencement of the voyage, the owner being required to give a written notice to the Minister of Marine and Fisheries that the ship is ready for inspection. The Minister of Marine and Fisheries is the officer entrusted with the administration of the Act.

Ships not ordinarily engaged in carrying passengers must before leaving port be inspected and certified as fit and proper for the carriage of passengers. The certificate must also state the number of passengers such ship may carry. The master of such ship is required to notify the Minister of Marine and Fisheries through the nearest customs officer in writing of the proposed sailing.

All passenger and sealing ships must be provided with adequately equipped seaworthy boats.

Passenger ships must be surveyed every six months, and half-class ships must have an annual inspection.

S. 11 provides that every steamer registered in the Colony carrying passengers to and from it, or from port to port within the Colony, shall have a crew assigned to each boat of the said ship. The crew shall be drilled every fortnight while the ship is in the service, and every boat shall be launched into the water once in every fortnight, so that any leaky or otherwise defective boat may be remedied. The fact of the drill and launching having been undergone must be entered in the ship's log by the master and chief officer.

Powers are given the inspector to board any ship and to inspect the machinery, equipment and cargo and to require the removal of cargo. The owner and officers must answer all pertinent questions. Obstruction or molestation of any inspector is not permitted. The

Minister of Marine and Fisheries may order any ship to be detained in port which has been reported by the inspector as unseaworthy.

No ship is permitted to carry females between Newfoundland and Labrador without a separate cabin of at least fifty cubic feet space for each female.

Penalties are provided for a breach of any sections of the Act of a fine not exceeding $100, or imprisonment not exceeding three months. Any ship which has proceeded on a voyage after having been detained on an order from the Minister may be seized and kept in custody until any fine imposed has been paid. Machinery or equipment used in violation of the Act is liable to forfeiture and seizure. Penalties may be recovered summarily.

C. 172, dealing with Survey of Labrador and Foreign Going Vessels, is repealed.

Lobster Fishery.—C. 26 provides a close time for the Lobster Fishery for three years from January 1, 1925.

Records of Pure-bred Animals.—C. 28 empowers the Minister of Agriculture and Mines to establish a live-stock pedigree book in his Department, for the record of the pedigrees of pure-bred horses, cattle, sheep, pigs, dogs and silver foxes, and to make Regulations for the carrying of the Act into effect.

Income Tax.—C. 32 imposes (1) a tax of 5 per cent. on fire-insurance companies; (2) on every bank, banking corporation or trust company doing business in the Colony a tax of three-sixteenths of 1 per cent. on all business of such bank, banking corporation or trust company; (3) an annual tax of 5 per cent. of the net rents received on landed property by persons residing outside the Colony.

12. BERMUDA.

[*Contributed by* SIR REGINALD GRAY, K.C., *Speaker of House of Assembly.*]

Acts passed—52.

Imperial Bureau of Entomology.—No. 5 makes an annual grant of £50 towards the upkeep of this Bureau for five years ending in 1930.

Imperial Bureau of Mycology.—No. 6 makes a similar grant towards the upkeep of this Bureau.

Patents.—No. 22 provides for the registration in Bermuda of patents granted in the United Kingdom.

Marsh Reclamation.—No. 34 provides for the reclaiming of marshes (1) by the Board of Public Works at £150 per acre payable by the owner into the public treasury by agreed instalments extending over not more than ten years, or (2) by the owner on payment to him of £150 per acre from the public treasury. Subject as aforesaid the cost of reclamation is payable out of the public treasury.

Imperial Preference.—No. 38 ratifies on the part of this Colony the Canada–British West Indies–Bermuda–British Guiana–British Honduras Trade Agreement, 1925, regulating trade relations between the said Dominion and Colonies.

Wireless Telegraphy.—No. 44 consolidates and repeals three previous Acts relating to the use of wireless telegraphy, and prohibits its use here except under a written licence from the Governor.

Appropriation.—No. 47 appropriated £236,809 15*s.* 5*d.* for the public expenditure during the year 1926.

Dogs.—No. 51 defines the liability of the owners of dogs, provides for the registration of dogs annually, and deals with stray dogs whose owners are liable for expenses incurred by the detention of such dogs.

Dangerous Drugs. — No. 52 amends the law with respect to the importation, exportation, manufacture, sale and use of opium and other dangerous drugs, including morphine, cocaine, diacetyl-morphine and their respective salts and medicinal opium and any preparation, admixture, extract or other substance containing not less than one-fifth per cent. of morphine or one-tenth per cent. of cocaine, ecognine or diamorphine. None of such drugs can be imported or exported except under licence from the Governor.

III. COMMONWEALTH OF AUSTRALIA.

[*Contributed by* Sir Robert Garran, K.C.M.G.]

Acts passed—32.

Most of the legislation passed in 1925 was in the nature of amending legislation, the most important measures being those relating to immigration and nationality. As in 1924, a number of Acts were passed to assist primary industries. For instance, the scope of the Export Guarantee Act, 1924, was extended ; the Main Roads Development Act, 1924, was amended to authorize the making of grants to the States for reconditioning or strengthening main roads ; and provision was made for the establishment of a Rural Credits Department of the Commonwealth Bank.

Banking.—The Commonwealth Bank (Rural Credits) Act (No. 16) authorizes the establishment of a Rural Credits Department of the Commonwealth Bank. Loans may be made to this Department from time to time by the Treasurer, provided that the total amount of the loans does not at any time exceed £3,000,000. Further funds are made available to the Department by the provision that 25 per cent. of the profits of the Note Issue Department are to be paid to the Rural Credits Department until the total amount so paid reaches the sum of £2,000,000.

In addition the Commonwealth Bank is authorized to issue debentures up to a specified amount for the purpose of raising funds for the Rural Credits Department. The funds so obtained may be loaned upon the security of primary produce to the Commonwealth Bank or other banks, and to certain corporations and co-operative associations, but no advance may be for a period exceeding one year. Instead of making advances, the Rural Credits Department may discount bills secured upon produce. The Board of Management of the Bank may allot to the Rural Credits Department such portion of the general receipts and expenditure of the Bank as is referable to that Department, and may invest any surplus funds acquired by that Department.

Customs.—The Customs Act (No. 22) defines the conditions under which preferential duties may be allowed to goods produced or manufactured in the United Kingdom. It is provided that the following goods shall be deemed to be the produce or manufacture of that country :

(*a*) goods which are wholly produced or wholly manufactured in the United Kingdom, no manufacturing process being performed in any country outside the United Kingdom (other than Australia) except in cases where the process is not being commercially performed in the United Kingdom; (*b*) goods in the manufacture or production of which not less than 75 per cent. of factory or works cost consists of United Kingdom labour and material; and (*c*) goods of a class or kind not commercially manufactured in Australia and in the manufacture of which not less than 25 per cent. of the factory or works cost consists of United Kingdom labour and material.

No goods will be entitled to the preference unless the final process of their production was performed in the United Kingdom. Questions as to what are raw materials, the method of determining factory and works cost, and certain other questions of administration will be determined by the Minister.

Electoral.—The Commonwealth Electoral Act (No. 20) confers the franchise upon natives of British India and certain naturalized subjects who were not previously entitled to vote. Another provision foreshadows the removal of the Seat of Government to Canberra. It provides that any member of the Senate or the House of Representatives living in the Federal Capital Territory may have his name enrolled upon the roll of any subdivision of the electorate which he represents.

Finance.—The National Debt Sinking Fund (No. 3) amends the principal Act by authorizing the payment of certain additional sums into the Sinking Fund established by that Act. These sums include moneys received in respect of reparations under the Treaty of Peace with Germany and moneys received from the States as Sinking Fund contributions in respect of loans made by the Commonwealth to the States.

The States Loan Act (No. 6) authorizes the raising of moneys to be loaned to the States in pursuance of agreements made between the Treasurer of the Commonwealth and the Treasurers of the States.

Immigration.—The Immigration Act (No. 7) adds to the list of prohibited immigrants "any person declared by the Minister to be in his opinion, from information received from the Government of the United Kingdom or of any other part of the British Dominions, or from any foreign Government, through official or diplomatic channels, undesirable as an inhabitant of, or visitor to, the Commonwealth." S. 3K provides that the Governor-General may by Proclamation prohibit, either wholly or in excess of specified numerical limits, and either permanently or for any specified period, the immigration into the Commonwealth, or the landing at any specified port or place in the Commonwealth, of aliens of any specified nationality, race, class or occupation, in any case where he considers such action desirable on account of the economic, industrial or other conditions existing in the Commonwealth, or because the persons specified are in his opinion unsuitable for admission into the Commonwealth, or because they are deemed unlikely to become readily assimilated or to assume the duties and responsibilities of Australian citizenship within a reasonable time after their entry.

Where any prohibited immigrant has been convicted of having unlawfully entered the Commonwealth, and has appealed against his conviction, he will not be released on bail unless he finds two approved sureties, each in the sum of £100, for his appearance at the hearing of the appeal.

S. 8AA provides that if at any time the Governor-General is of opinion that there exists in Australia a serious industrial disturbance prejudicing or threatening the peace, order or good government of the Commonwealth, he may make a Proclamation to that effect, and this Proclamation will remain in force until revoked. While the Proclamation remains in force, if the Minister is satisfied that any person not born in Australia has been concerned in Australia in acts directed towards hindering or obstructing, to the prejudice of the public, the transport of goods or the conveyance of passengers in relation to trade or commerce with other countries or among the States or the provision of services by any department or public authority of the Commonwealth, and that the presence of that person in Australia will be injurious to the peace, order or good government of the Commonwealth in relation to matters with respect to which the Parliament has power to make laws, the Minister may call upon the person to appear before a Board appointed for the purpose to show cause why he should not be deported from the Commonwealth. If the person fails to appear before the Board, or the Board recommends that he be deported, the Minister may make an order for his deportation.[1]

S. 8AB provides for the deportation, after a similar opportunity to show cause before a Board, of any person not born in Australia who has been convicted in Australia of an offence against the laws of the Commonwealth relating to trade and commerce or conciliation and arbitration for the prevention and settlement of industrial disputes, in cases where the Minister is satisfied that any of the acts constituting the offence were directed towards hindering or obstructing, to the prejudice of the public, the production or transport of goods or the conveyance of passengers, or the provision of necessary services, and that the presence of the person in Australia will be injurious to the peace, order or good government of the Commonwealth. The remaining sections of the Act relate to the onus of proof as to place of birth, and provide for the custody and deportation of persons ordered to be deported.

Nationality.—The Nationality Act (No. 10) extends the definition of a natural-born British subject to the children of British subjects in cases where those children were born outside British Dominions and were registered, within a specified period after birth, at the British Consulate. The Act provides, however, that any such person shall cease to retain British nationality on attaining the age of twenty-one unless he makes a declaration of retention of British nationality, and, if a citizen or subject of a foreign country, divests himself of such foreign nationality.

Navigation. — The Navigation Act (No. 8) empowers the Governor-General at any time, if he considers it expedient in the public interest, to issue a Proclamation suspending for a specified time the provisions of Part VI of the principal Act, which deals with the coasting trade. The Act also authorizes the Governor-General to direct that compliance with any requirement of the Act may be dispensed with by any ship or class of ships if he is satisfied that, as regards the ship or class of ships, the requirement has been substantially complied with, or that compliance is in the circumstances unnecessary, or that the action taken or provision made is as effective as, or more effective than, actual compliance with the requirement.

[1] The validity of s. 8AA was challenged before the High Court in *Ex parte Walsh, Ex parte Johnson*, 32 Argus Law Reports, p. 46. The Court held that the section was valid, though not applicable to the particular respondents.

Peace Officers. — The Peace Officers Act (No. 12) empowers the Attorney-General to appoint peace officers, of such number, rank and grade as he deems necessary for the preservation of the peace throughout the Commonwealth. Such peace officers hold office during the pleasure of the Attorney-General, and have such powers, privileges and immunities, and are liable to all such duties and responsibilities as are conferred or imposed upon them or upon any constable or other officer of police, by or under any law of the Commonwealth, or are possessed by any constable or other officer of police either under the common law or by virtue of any law in force in that part of the Commonwealth in which they exercise their powers. Peace officers have to take an oath under the Act, and this is deemed to be equivalent to a written agreement, and binds such officers until discharged. Persons impersonating peace officers are liable to a penalty of £50 or imprisonment for three months. No peace officer is entitled to resign until he has given three months' previous notice in writing, whereupon his powers and authorities cease. Provision is also made for the Attorney-General, at any time and on such conditions as he thinks fit, to authorize the appointment of special peace officers.

Pensions.—The Invalid and Old-age Pension Act (No. 27) increases the maximum amount of pension from £45 10*s.* to £52 per annum.

Taxation. — The Entertainments Tax Act (No. 23) increases the general exemption from entertainments tax to all payments for admission to entertainments where the charge is less than 2*s.* 6*d.*

The Income-tax Act (No. 29) reduces the tax as compared with previous years and repeals the provision imposing tax on prizes in lotteries.

The Income-tax Assessment Act (No. 28) contains a number of amendments rendered necessary by a judgment of the High Court,[1] which declared certain provisions of the principal Act relating to the Board of Appeal to be invalid, and determined that the Board was unconstitutionally appointed. The amending Act provides for the re-creation of the Board under new circumstances and a new name, and the validation of all past acts of the Board in cases which have been dealt with by it. The Act also provides for a deduction to be allowed to co-operative companies in respect of amounts distributed amongst shareholders as interest or dividends on shares. Provision is also made for the adjustment of assessments affecting special contracts extending over a period of three years.

War Memorial.—The Australian War Memorial Act (No. 18) provides for the establishment of an Australian War Memorial consisting of a collection of war relics of the Commonwealth, and a building for the accommodation of the collection. The contents of the Australian War Museum will form part of the collection. A Board of Management of not more than twelve persons will be appointed, and, subject to the directions of the Minister, it will be the duty of this Board to control and preserve the relics, records, models, pictures, photographs and other articles comprised in the collection, and to make arrangements for their public display. A fund will be established consisting of moneys obtained from various sources, including bequests and donations, and this fund may be used by the Board for the acquisition of additional exhibits. Subject to the approval of the Minister, the Board may

[1] *British Imperial Oil Co., Ltd.* v. *Federal Commissioner of Taxation*, 35 C.L.R., p. 422.

exchange, sell, loan or otherwise dispose of exhibits which, in its opinion, are no longer required, and may sell to the public reproductions of official photographs, pictures and cinematograph films.

1. NEW SOUTH WALES.

[*Contributed by* PROFESSOR A. H. CHARTERIS, LL.B., *The University of Sydney.*]

Acts passed: Public—25; Private—1.

Administration of Justice.—Act. No. 15 amends the Administration of Justice Act, No. 42, of 1924,[1] so that judgments obtained in Northern Ireland are now registerable in New South Wales.

Forty-four Hours Week.—No. 16, which is to be read and construed with the Industrial Arbitration Act, 1912 (called the principal Act), repeals the Eight-hours Act, 1916, and the Eight-hours (Amendment) Act, 1922, and prescribes directions to be followed in all awards and agreements as to ordinary working hours in all industries other than coal-mining and shipping, with respect to vessels trading beyond the limits of a port, to which the principal Act applies. The ruling direction is that in these industries the number of ordinary working hours of an employee shall not exceed: (1) eight hours during any consecutive twenty-four hours; (2) forty-four hours per week; or (3) eighty-eight hours in fourteen consecutive days; or (4) one hundred and thirty-two hours in twenty-one consecutive days; or (5) one hundred and seventy-six hours in twenty-eight consecutive days.

Overtime may be permitted by award or agreement to be paid at rates to be fixed therein, but not at less than the rates paid at the commencement of the Act.

The ordinary working hours in any industry may be increased beyond these limits if the Court or Board is of opinion that in the public interest such increase shall be allowed. Weekly wages are not to be reduced by reason only of the reduction in the ordinary working hours under the Act, but where the ordinary working hours are reduced by operation of the Act wages fixed in any award or agreement on a daily or hourly basis shall automatically be increased so that each employee working full time shall receive the same amount as he would have received for working full time under the award or agreement. It is an offence punishable by fine up to £50 to make any agreement or contract for the working of hours in excess of those prescribed by or under this Act.

All awards and agreements made under the Federal Arbitration Act adopted a standard working week of forty-eight hours. Part III of the Act under review made its provisions applicable within New South Wales to Federal awards also (s. 12), a method of calculating (*a*) wages up to forty-four hours, (*b*) in excess of forty-four hours under such awards or agreements being provided in s. 13. The doubtful constitutional validity of these provisions as well as of s. 6 so far as applicable to parties to Federal awards was successfully challenged before the High Court of Australia in *The Clyde Engineering Co., Ld., Case*, (1926) 37 C.L.R. 467.

Government Railways.—No. 27 was passed by the Labour Govern-

[1] See *Journal of Comparative Legislation*, Third Series, vol. viii, pt. ii, p. 133.

ment in order to nullify the decision of the Supreme Court in *Septo* v. *Railway Commissioners of N.S.W.*, (1925) 42 (N.S.W.) W.N. 181, holding that the Government Railways Act, 1912, does not authorize the Governor by executive or minute to give mandatory directions to the Commissioners as to the way in which discretionary powers conferred on them are to be carried out, and that the power of the Commissioners under s. 78 of the Act to remove an officer does not include power to regress or to move an officer from one position to another merely of their own volition. By direction of the Government the Railway Commissioners had regraded a number of " loyalist " railway men who had refused to participate in a strike during the war, this for the purpose of restoring a number of the strikers to their former positions. The Act in question validates the acts of the Commissioners which had been successfully challenged, and declares them always to have had the power which the Supreme Court had found them to lack.

Income-tax. — By the Income-tax (Management) Amendment Act, No. 26, the tax-free income is raised from £250 to £300. The deduction of £50 for maintenance of a child under eighteen may suffer an abatement when the child is not wholly maintained by the tax-payer. From a taxable income not exceeding £600, deduction of medical expenses of tax-payer and wife and of child under twenty-one, as well as funeral expenses up to £20 in respect of wife or child under twenty-one, are allowed. An important amendment subjects to taxation in New South Wales moneys due by persons in New South Wales to any person whose principal place of business is outside the State in respect of rights in connexion with motion-picture films. Such moneys are to be deemed taxable income if the foreign tax-payer, and the person by whom they are due, is to be deemed to be the agent of such tax-payer. The intention is to tax these moneys in the hands of the agent.

Marriage.—The Marriage Amendment Act (No. 1), which amends Parts II, IV and VII of the Marriage Act, 1899, by s. 2 validates a marriage celebrated in New South Wales between a person and the widow of his deceased brother, and is retrospective. S. 3, following a provision in the New Zealand Marriage Act, No. 65, of 1920, makes it an offence punishable on summary conviction by fine up to £100 with or without imprisonment up to twelve months to allege, expressly or by implication, (*a*) that any persons " lawfully married are not truly husband and wife ; or (*b*) that the issue of any law-marriage is illegitimate or born out of true wedlock." The meaning of " allege " is defined in subsection (2), and the use in the celebration of marriage of a form of marriage service which at the commencement of this Act was in use by the religious denomination to which the person belongs, is safeguarded.

It is made an offence subject to the like penalties for a celebration of marriage between two persons, who are already married in accordance with the provisions of this Act and whose marriage has not been dissolved, to use the form of certificate of marriage provided in Schedule 4 of the Act for the marriage of persons hitherto unmarried, or to issue a certificate of marriage without referring to the fact that such person has already been lawfully married.

S. 30 provides for deprivation of the right to celebrate marriage where a person is convicted, *inter alia*, of any breach of this Act. Furthermore, conviction of a breach of s. 28 or s. 29 imports disqualification and liability to removal from the register of persons licensed to celebrate

marriages. The amending Act relates, of course, to certain mischiefs alleged to result from the Ne Temere decree.

The Mines Rescue Act.—No. 3 empowers the Governor by Proclamation in the Gazette to establish districts in which, out of funds provided by annual contributions from the mine-owners in the district, central rescue stations shall be erected and maintained by a Rescue Station Committee, which shall consist of the check-inspector and 3–5 nominees of the owners. The station is to be under the control of a salaried superintendent of prescribed qualifications (s. 12 (2)), appointed by the Committee and shall maintain 15 sets of breathing-apparatus with accessories as may be prescribed, together with a motor-car ready for immediate use. At each mine the owner shall provide a room for rescue and first-aid work under the charge of a person appointed by the manager and equipped with two sets of breathing apparatus and in telephonic communication with the mine (s. 10). The Committee, on the recommendation of the superintendent, shall appoint instructors competent to train a rescue corps or rescue brigade, in accordance with the following scale: (*a*) at rescue stations maintaining a permanent rescue station—where less than 15,000 men are employed in the district underground—one person in addition to the superintendent; (*b*) at rescue stations not maintaining a permanent rescue corps—if the total number of brigades required to be provided at the mines served by the station does not exceed 50—one in addition to the superintendent; exceeding 50, two in addition to the superintendent.

Part III provides for the establishment of permanent rescue corps at central rescue stations consisting of not less than 6 trained men to be appointed by the committee and to be paid wages out of the Rescue Fund. At each mine in the district the owner shall appoint two or more competent persons to act with the rescue corps and to receive fees. Every rescue corps shall, after completion of its training, undergo at least six practices underground in mines with breathing apparatus every year and at least one such practice in every quarter.

Part IV provides for rescue brigades to be organized and maintained in accordance with a prescribed scale by owners in districts where permanent rescue corps is not compulsory or in mines lying outside compulsory districts. This part embodies provisions already contained in Statutory Rules issued in 1912.

Prickly Pear.—Act No. 4 amends the Prickly Pear Act, 1924,[1] by abolishing the Prickly-pear Destruction Board (of three members) and substituting therefor a Prickly-pear Destruction Commissioner, who shall, subject to the direction and control of the Minister for Lands, be the authority charged with the administration of the Act.

Trusts.—The Trustee Act, No. 14, is an important consolidating and amending Statute which replaces the Trustee Act, 1898, the Trustee Amendment Act, 1902, and the Trustee (Delegation of Power) Act, 1915. The Trustee Act, 1898, itself a consolidating Statute, was based on English enactments from 1849 to 1863, which have now been replaced by more modern legislation, but with certain minor exceptions had not yet been followed in New South Wales. The Bill, which was the work of the Commissioner for Law Reform, was framed in the light of recent legislation in England, and in other States of the Commonwealth as well as New Zealand, and is designed to facilitate the administration

[1] See *Journal of Comparative Legislation*, Third Series, vol. viii, pt. ii, p. 140.

of trust estates and to enable them to be administered as economically as possible.

Widows' Pensions.—Act. No. 23 provides that every widow resident in New South Wales shall, while so resident, be qualified to secure a widow's pension, provided that she is (*a*) domiciled in New South Wales at date of death of husband, (*b*) resident in New South Wales at date of application for a pension certificate and has been continuously so residing for three years, and (*c*) has a child under fourteen years of age wholly or mainly dependent on her for support (s. 13 (1), (2)). Statutory grounds of disqualification include, *inter alia*, lack of good moral character and sober habits, alien nationality, the fact of being an Asiatic and not having been born in Australia or of being an aboriginal native of Africa, the Islands of the Pacific, or New Zealand.

The rate of pension is at the rate of one pound per week in respect of the widow and ten shillings per week for each wholly or partially dependent child under fourteen, subject to a deduction of one pound per annum for each pound per annum by which the widow's net income as defined in s. 15 exceeds £78 per annum.

S. 15 provides that " income of the widow " includes any pension or allowance other than the pension granted under this Act ; earnings of widow and children under fourteen from personal effort ; 5 per cent. of the value of any real or personal property owned by widow or children which produces no income or an income less than 5 per cent., but not of the value of any house in which they reside or of its furniture ; 25 per cent. of earnings of a child under fourteen resident with widow ; moneys derived from investments of capital, any amount applied for maintenance or education of a child by any administrator, executor or trustee ; income derived from any other source whatever.

Claims for pensions, which must, *inter alia*, affirm all the qualifications and requirements and negative all disqualifications under the Act, and be verified by statutory declaration, are investigated by the deputy registrar, who is entitled to obtain confidential reports as to the circumstances or the financial transactions of a claimant or pensioner or of any relatives thereof, and shall make a full report to a police or stipendiary magistrate. The magistrate may investigate the pension claim for the purpose of ascertaining whether the applicant is entitled to a pension and, if so, at what rate. He may take evidence. He shall not be bound by any rules of evidence, but shall investigate the matter and make this recommendation according to equity and good conscience and the substantial merits of the case, without regard to technicalities or legal forms.

The magistrate may recommend the claim as made or as modified by the result of his investigation, postpone the claim for further evidence or reject the claim, but he shall not recommend the claim unless satisfied that the claim is established and unless the claimant's evidence, if any, is corroborated on all material points by documentary information or oral evidence.

There is provision for appeal to the Minister in respect of matters found by magistrate to be disproved. A new investigation by registrar may be ordered and the Minister's determination is final. In matters found unproved or insufficiently proved, claimant may submit new evidence. Rejected claims may be reheard. Admitted claims cancelled, suspended or reduced in amount (s. 24 (1)).

2. QUEENSLAND.

[*Contributed by the* Hon. Sir Littleton Groom, K.C.M.G., K.C., M.P., *and* J. F. Gamble, Esq., B.A., LL.B.]

Acts passed—30.

Agriculture.—The Wheat Pool Act Amendment Act (No. 26) considerably extends the scope of the Act of 1920. Power is conferred on the Council of Agriculture to serve upon the Wheat Board a precept stating the amount which the Council estimates to be required during the year for the administration and other expenses of the Council in connexion with wheat. The amount specified then becomes payable by the Board to the Council, out of the proceeds of a levy in respect of wheat, which the Board is authorized to make with the prior approval of the Minister. Moneys raised in this way may also be used to establish and maintain a fund for the purpose of effecting insurances against hail, flood, fire, or other casualty, or for effecting any other special object which the Board determines to be in the common interest of the growers of wheat, but the object must be approved by the Minister, and a prescribed number of growers may compel the Board to hold a poll in regard to the matter.

S. 3 provides that if fifty or more growers so request, the Governor may, by Order in Council, declare wheat to be a commodity for the purposes of the Primary Products Pools Acts, 1922 to 1925, and may constitute a Board under those Acts and extend the provisions of those Acts to wheat with such modifications or additions as may be necessary. The Board so constituted may compulsorily acquire wheat, and may deal with it in such manner as is considered necessary to give full effect to the purposes and objects for which the Board is constituted. Thirty days' notice of intention to make an Order under this section must be given, and fifty or more growers may lodge a petition asking that a poll be held, and on the holding of the poll, at least two-thirds of the votes polled must be in favour of making the Order.

The Order may be of limited duration, and may be rescinded or amended. Upon the constitution of the Board under the Order, the following consequences ensue: The Wheat Pool Act of 1920 is repealed, and the State Wheat Board dissolved, and its assets, powers and functions transferred to the Board constituted under the Primary Products Pools Act.

Animals.—The Animals' Protection Act (No. 25) repeals the Act of 1901 and substitutes new provisions dealing with the subject in more detail. The definition of "officer" includes certain paid servants of the Queensland Society for the Prevention of Cruelty.

The section relating to offences of cruelty is enlarged to cover such offences as neglect to supply any domestic or captive animal with suitable food and water, neglect to exercise or release for exercise any dog habitually chained up, and the administration of any poison or drug (except for medicinal purposes) to any animal entered or about to be entered in any race or upon any race-course, with the intention of impeding or affecting the safety, endurance, speed or physical condition of the animal. Special provision is made in regard to homing pigeons. Compensation may be recovered from any person who, by cruelty to any animal, causes damage or injury to the animal or to any person or property.

The exemptions include the slaughtering of animals in any manner necessary to comply with the requirements of the Jewish or any other religion; the de-horning of cattle, or the castration, ear-marking or branding of animals where the operation is performed with a minimum of suffering to the animal; the extermination of rabbits, dingoes, etc.; the hunting, snaring or shooting of wild animals not protected under any law; and vivisection experiments performed in accordance with the regulations relating to this matter. Such vivisection experiments must be performed while the animal is under the influence of some anæsthetic so as to be insensible to pain. If the recovery of the animal after the operation is likely to involve serious suffering, it must be destroyed while still insensible, and an animal which has suffered one experiment must not be subjected to another. If any officer is of opinion that any animal is unfit for work he may, by notice served on the person in charge of the animal, prohibit the use of the animal in work or labour, or in work or labour of a specified kind, for a period of twenty-one days, and at the end of this period he may serve further notices, but any person aggrieved may apply to a Court to have any notice annulled or varied. Where the owner of any animal has been guilty of cruelty to it, the Court may, in certain circumstances, deprive him of the ownership of the animal, and make such order as to the disposal of the animal as it thinks fit.

Restrictions are placed upon the sale and purchase of decrepit animals, and the slaughter of such animals.

Crown.—The State Securities Registration Act (No. 19) relates to the registration of securities executed in favour of the Crown. "The Crown" is defined as including not only His Majesty the King, but also every Minister of the Crown, and every officer, person, body corporate, board or other body acting for or on behalf of, or as the agent of, or as representing the King.

"Security" includes a mortgage, encumbrance, charge or lien, and certain other instruments executed by any person in favour of the Crown, and constituting a security in respect of any debt or other obligation to the Crown.

The term does not, however, include mortgages, charges or liens so far as they relate to land or to certain Crown leases and mining leases. The Act provides that securities in favour of the Crown must be registered and a copy filed in the Registry of the Supreme Court of Brisbane. Provision is also made for the fact of the discharge of the security to be endorsed upon the copy filed in the Registry.

Labour.—The object of the Industrial Arbitration Act Amendment Act (No. 13), as set out in the long title, is "to make better provision for the regulation of the conditions of industries by means of Industrial Conciliation and Arbitration; to establish a Board of Trade and Arbitration, and to define its jurisdiction and powers."

The Court of Industrial Arbitration is abolished, its place being taken by a Board of Trade and Arbitration consisting of three persons appointed from time to time by the Governor. One of these persons, who is designated as the President, must be a judge of the Supreme Court of Queensland. All the powers and functions previously exercised by the Court of Industrial Arbitration are transferred to the Board of Trade and Arbitration, and in addition, it has the following administrative functions: (*a*) to acquire and disseminate knowledge on all

matters connected with industrial occupations, with a view to improve the industrial relationships between employers and workers and combat the evils of unemployment; (*b*) to collect and publish information relating to or affecting industrial conditions; (*c*) to propound schemes for welfare work and report to the Governor in Council on all matters relating to such work and to the insurance of employees against loss or injury caused by unemployment, sickness, accident, or industrial diseases; (*d*) to report on any matter referred to it as to the prices of commodities or services and as to whether or not monopolies or trade rings exist for the purpose of unfairly keeping up the prices of commodities; to administer the provisions of the Profiteering Prevention Act of 1920, and for that purpose all references to the Commissioner of Prices in that Act or in any other Act shall be deemed to be references to the Board of Trade and Arbitration and to each member thereof; (*e*) to investigate and report on the existence of sweating or unfair competition in an industry; (*f*) to report upon the productivity of industries, the number of employees in any industry, and the effect or probable effect of the regulation of the conditions of any industry upon such productivity; (*g*) to consider and report upon the industrial efficiency of the community, the organization of the labour market and opportunities of employment and all questions relating to unemployment; (*h*) to collect and publish from time to time statistics of vital, social, and industrial matters and on labour, employment and unemployment in specific industries and on other prescribed matters; (*i*) to encourage and assist in the establishment in different industries of mutual welfare committees and industrial councils and of subsidiary shop committees for individual enterprises; (*j*) to encourage and assist schemes for mutual co-operation between employers and employees; (*k*) to encourage and assist in the establishment of hostels for women workers and workmen's clubs and libraries; (*l*) to report and advise on schemes for the better housing of the people.

The Basic Wage Act (No. 5) provides that the basic wage declaration of the Court of Industrial Arbitration shall remain in force notwithstanding any award or declaration of the Court to the contrary made prior to the passing of the Act.

The Court is required to revise all awards and agreements which it is necessary to revise in order to bring them into conformity with the basic wage declaration. The Act is to remain in force for a period of twelve months and thereafter until the coming into force of any declaration at variance with the basic wage declaration referred to in the Act.

The Inspection of Machinery Act Amendment Act (No. 3) amends the principal Act by providing for the issue of hoist-drivers' certificates, internal combustion engine-drivers' certificates and refrigeration engine-drivers' certificates.

The Workers' Compensation Act Amendment Act (No. 18) extends the provisions of the principal Act to share farmers and their wages-men, and amends the table of Industrial Diseases.

The Workers' Homes Acts Amendment Act (No. 10) makes provision for the alteration, enlargement or improvement of homes and for the adjustment of the capital cost and monthly rent accordingly.

Land, Crown.—The Land Acts Amendment Act (No. 27) makes a number of amendments to the principal Act. Provisions are inserted in

regard to the holding of land by trustees, the eradication of noxious weeds and the mortgage of selections during the period of licence to occupy or while the land is subject to the personal residence condition. The Act also provides for the case of the Crown tenant becoming insolvent, and authorizes the making of agreements by Crown tenants for the erection and maintenance of a communal ring fence against vermin.

Local Authorities. — The Local Authorities Acts Amendment Act (No. 29) provides for the constitution of Joint Boards consisting of representatives of the Local Authorities having jurisdiction within any part of the area of a Joint Local Authority. These Boards are to be the governing bodies of the respective Joint Local Authorities. Power is given to Local Authorities to take proceedings in their own names in certain cases where the power to take proceedings is vested in the Attorney-General. The Local Authority is also authorized to execute certain works required to be executed in pursuance of any Act in cases where default has been made by the owner or occupier concerned.

Medical.—Act No. 24 repeals the Act of 1867 and enacts new provisions. Provision is made for the constitution of a Medical Board consisting of five persons, and for the conduct of the proceedings of the Board. No person is allowed to practise medicine or surgery, or to hold himself out as a practitioner, unless he is registered under the Act. Applications for registration are dealt with by the Board, and it is necessary for the applicant to prove that he is of good fame and character, and that he is the holder of a degree in medicine or surgery of a university in Australia or New Zealand, or is entitled to be registered in the United Kingdom, or has passed through a regular course of medical study of not less than five years, and has received from some university, college or other authorized body, after due examination, a diploma or licence entitling him to practise medicine. The names of practitioners guilty of certain offences or of infamous conduct may be erased from the register, but the Board may be required to state in writing the reason for such erasure, and, where the charge is "infamous conduct," there is a right of appeal to the Supreme Court.

Part IV of the Act deals with inquests and burials, and Part V relates to anatomy. Part V provides that the Governor in Council may authorize the establishment of Schools of Anatomy in connexion with any university or school of medicine. He may also grant licences to practise anatomy to certain qualified persons.

Provision is made for the appointment of inspectors of schools of anatomy and for quarterly returns of certain information regarding bodies removed for anatomical examination.

The Act also sets out the law in regard to the powers of persons in custody of bodies to permit anatomical examination of the bodies, and the conditions to be observed before bodies can be removed for such examination. Conditions are also prescribed as to the manner in which anatomy is to be practised and the removal and interment of bodies.

Mining. — The Mining Acts Amendment Act (No. 8) amends the Mining Act of 1898 and the Mining on Private Land Act of 1909. New definitions of "mineral as distinguished from gold" and "private land" are substituted for those in the Act of 1909, and it is expressly provided that, subject to the Act, gold and all minerals (except coal, in certain cases) on or below the surface of land in Queensland are, and each of them is, the property of the Crown. It is also provided that all Crown

grants and leases issued after March 1, 1910, shall contain a reservation of all gold and minerals, and also a reservation of a right of access for the purpose of working any mine for gold or minerals. In certain cases, however, the owner of land may apply for a mining tenement within one year after the passing of the Act, and his application will be entitled to priority.

The Coal Mining Act (No. 30) consolidates and amends the laws with respect to prospecting and mining for coal and the regulation of coal-mines. The power to proclaim coalfields is vested in the Governor in Council, and he is authorized to appoint a Chief Inspector of Coal Mines and other inspectors and officers. The Governor in Council also has power to grant coal-mining leases, but licences to search for coal may be issued by the Minister. All coal leases must contain a reservation of all gold found, and a covenant to pay rent and royalty. The maximum area comprised in a lease is 640 acres, and the maximum term twenty-one years. There is also a covenant to work the land demised by not less than one man for every 40 acres No licence or lease can be granted to any company which is not incorporated or registered in Queensland. Part III deals with the drainage of coal-mines. It authorizes the Governor in Council in certain circumstances to constitute any area a coal-mines drainage area, and provides for the establishment of a Drainage Board elected by the owners of the coal-mines in the area. The Board may require any owner in the area to construct drainage works, the expense being shared in proportion to the benefit derived by the owners in the area.

The Act also provides for the compulsory bailing of mines in certain cases. Part IV deals with the regulation of coal-mines. It requires that every coal-mine shall be worked under a manager, who shall be responsible for the control, management and direction of the mine. Every manager must hold a certificate granted under the Act, and no person can be appointed manager of more than one mine without the special permission of the Minister.

The following certificates may be granted by the Board of Examiners under the Act :

First-class mine manager's certificates, second-class mine manager's certificates, deputy's certificates, winding licences and certificates as mine electricians.

Daily supervision of the mine must be exercised by the manager or by some competent person appointed by him, and the manager must personally inspect the mine at least once a week. Provision is made for the withdrawal of workmen in case of danger.

Inspectors appointed under the Act have power to enter any mine, and to make examinations and inquiries in regard to the state of the mine, the state of the machinery therein, the ventilation of the mine and the care and treatment of the horses or other animals used in the mine. Inspectors may in certain cases order precautions to be taken or changes made to ensure safety.

Any person working in a mine may make a complaint to the inspector in regard to any breach of the Act or any dangerous practice, and the inspector must investigate the matter without disclosing the name of his informant.

Provision is also made for the workmen employed in the mine to elect two of their number (who must be practical working miners with

more than five years' experience underground) to inspect the mine or any part of it, and to make a report thereon. If the report states the existence or apprehended existence of any danger, a copy of the report must be sent to the inspector and the manager must also be notified. Miners' inspectors have power to suspend all operations in any dangerous place until the place is certified to be safe by the inspector.

The Act contains provisions in regard to the notification of accidents, the provision of ambulances and medicines, rescue stations, and the holding of inquiries into the cause of accidents. Engine-drivers in charge of winding machinery must have winding licences, and must also hold a medical certificate, which must be renewed or endorsed at intervals of not less than two years. They must not be employed for more than eight hours consecutively, or more than eight hours in any twenty-four hours. Sunday work is permitted only in certain specified cases. Plans showing the workings of the mine must be transmitted to the Minister annually, and returns as to labour employed, output, etc., must also be supplied. Within eighteen months after breaking away from the shaft bottom, at least two openings to the surface must be provided. Special provisions apply where miners are paid on the amount of mineral got by them. Proper weighing apparatus must be provided, and the miners may appoint a check-weigher to protect their interests. The First Schedule specifies 37 subjects in respect of which the Governor is authorized to make regulations. These include such matters as ventilation, labour conditions, abandonment, transfer, refuse, embankment, bridges, nuisances, bailing, protection of roads, forms, covenants, royalty, returns, fees and drainage. The Governor in Council may also make Rules in regard to a number of matters, such as first aid, ventilation, testing ropes and other appliances, health and sanitation, explosives, fencing, safety-lamps, accidents, etc. A complete set of Rules is contained in the Second Schedule to the Act, but these may be rescinded, amended or modified by the Governor in Council.

Primary Produce.—The Primary Products Pools Acts Amendment Act (No. 4) provides for the divesting of the property in any commodity from the growers of the commodity and the vesting of it in a Board constituted under the Act. The Act also empowers the Council of Agriculture to issue to the Board a precept stating the amount which the Council estimates to be required for the year for administration and other expenses, and the Board is authorized to make a levy on the growers for the purpose of obtaining the amount stated, for its own administration expenses, and (subject to certain conditions) for establishing and maintaining a fund for the purpose of effecting insurances against fire, hail, flood or other casualty, or for effecting any other special object which the Board considers to be in the common interest of the growers.

The Fruit Marketing Organization Act Amendment Act (No. 23) enlarges the powers of the Committee of Direction appointed under the Act. Provision is made in certain circumstances for the compulsory acquisition of fruit by the Committee of Direction, and for voluntary agreements between the Committee and any grower whereby the grower places the marketing of his fruit in its hands and under the control of the Committee.

Main Roads.—Act No. 97 amends the principal Act by providing

for the dissolution of the Main Roads Board and the appointment in its stead of a Commissioner of Main Roads.

Traffic.—The Heavy Vehicles Act (No. 22) provides for the registration of certain heavy vehicles and the payment of registration fees. "Heavy vehicle" is defined as a motor-omnibus, motor-truck, trailer or tractor; also any animal-drawn vehicle the tare of which exceeds 25 cwt.

The Minister is authorized to establish and declare traffic routes and to abolish or vary such routes. Certain conditions must be complied with before registration is permitted. In the case of motor-omnibuses, the applicant must insure against damages in case of injury to any person to the amount of at least £1,000. The revenue received under the Act, after payment of administration expenses, is allocated by the Minister to the various local authorities upon the roads on which heavy vehicles have been used during the year.

Trustees.—The Trust Accounts Act Amendment Act (No. 2) provides that every trustee must make an annual return of property in his hands to which a beneficiary was, for a period of one year before the date of the return, absolutely entitled. The return must be accompanied by a statement of all costs, charges and expenses claimed by the trustee. Upon receipt of the return the Attorney-General may require the trustee to transfer the property to the Public Curator. If the trustee fails to comply with the requirement, the Public Curator may apply to the Supreme Court for an order directing compliance with it. Upon transfer of the property the Public Curator must use every endeavour to find the beneficiary and distribute the property.

3. SOUTH AUSTRALIA.

[*Contributed by* E. L. Bean, Esq., M.A., LL.B., *Acting Parliamentary Draftsman.*]

During the Parliamentary Session of 1925 65 Acts were passed by the Parliament of South Australia. Of these 13 are dealt with hereunder. The remainder are Acts of a temporary or local character, or relating to less important details of public administration.

Adoption of Children.—Act No. 1692 lays down a code of procedure whereby an adopting parent may obtain an order of the Court giving him or her the same rights and status with respect to the adopted child as he or she would have if the child were his or her own born in lawful wedlock.

The following persons are entitled to apply for an order of adoption, namely:

(*a*) In the case of a female child: (1) a husband and wife jointly; (2) a married woman alone, but, if she is not legally separated from her husband, only with the written consent of her husband; (3) any unmarried woman who is, in the opinion of the Court, at least eighteen years older than the child; (4) any unmarried man who is, in the opinion of the Court, at least forty years older than the child.

(*b*) In the case of a male child: (1) a husband and wife jointly; (2) a married man alone, but if he is not legally separated from his wife, only with the written consent of the wife; (3) any unmarried man who is, in the opinion of the Court, at least eighteen years older than the child;

(4) any unmarried woman who is, in the opinion of the Court, at least forty years older than the child.

For the purpose of construing these provisions a person will be deemed unmarried if he or she has not a wife or husband, as the case may be, living at the time.

The procedure for establishing the binding relationship of adopting parent and adopted child is an application to a special magistrate for an order. For deciding the application the magistrate is given ample powers of inquiry by s. 5, and the order is not to be made unless he is satisfied: (1) that the child is under 15 years of age; (2) that the proposed adopting parent is a fit person of good repute, and is able and intends to bring up, maintain and educate the child as though it were his own child; (3) that the adoption will be for the child's welfare; and (4) that the required consents have been filed. The consents required are: (1) the consent of the child, if over twelve years of age; and (2) unless the child is deserted, the consent of the parents or guardian. In cases, however, where the Court thinks such parent or guardian unfit to have the custody or control of the child, such consent may be dispensed with.

There is power for the special magistrate to make a kind of "trial order," *i.e.* he may adjourn the hearing of the application for any time up to one year, and direct that during the adjournment the child shall live with the person desiring to adopt it.

The legal effect of an order of adoption, on the child's side, is stated in s. 11. The child acquires the status of a child of the adopting parent with all the consequent rights and obligations; this, however, is not to apply in case of rights arising under instruments executed before the adoption, nor so as to give the adopted child any share in the rights of real children except so far as those rights accrue directly through the adopting parent.

The effect of the adoption on the side of the parents is stated by s. 12, which practically places the adopting parent in the legal position of the real parent.

Criminal Law.—The principal object of Act No. 1670 is to abolish minimum penalties. For this purpose a number of amendments are made to the Criminal Law Consolidation Act, 1876, so that the penalties for all offences (except offences punishable by death) will be in the discretion of the judge, subject to the prescribed maximum. The Act also alters the law relating to the penalty for indecent assault upon a female. Under the pre-existing law it was provided that for a second or subsequent offence of this character the offender had to be whipped. The amendment renders the whipping discretionary.

Further, the Act enables charges for more than one felony, more than one misdemeanour or for both felonies and misdemeanours to be joined in the same information if founded on the same facts or forming or being part of a series of offences of the same or a similar character.

The Court is empowered to order a separate trial of each charge if the defence is likely to be prejudiced by reason of the fact that different offences are charged in the same information.

Evidence.—Act No. 1669 contains a number of minor amendments relating to the mode of proving telegraphic messages, bankers' books, previous convictions, the votes and proceedings of Parliament, and bills of lading.

It also provides that in any proceedings in a Court of Summary Jurisdiction, the allegation in the complaint that any place is a public place shall be *prima facie* proof of that fact.

The Act makes an important innovation in the law relating to the compellability as a witness of the spouse of an accused person. The husband or wife of an accused person has heretofore in South Australia been a competent (but not compellable) witness for the defence in criminal proceedings. S. 15 of the Act, however, declares that in a number of specified cases set out in the First Schedule to the Act the husband or wife of the accused is a competent and compellable witness either for the prosecution or the defence. The cases referred to are offences against the person or health of a wife or children, assaults, rape, incest and other kindred offences.

Deceased Husband's Brother's Marriage.—Act No. 1672 validates all marriages made prior to the passing thereof between any woman and her deceased's husband's brother and permits such marriages to be validly contracted in future.

Compulsory Acquisition of Land.—Act No. 1724 repeals the Lands Clauses Consolidation Act of 1847 and its amendments and enacts new provisions regulating the rights of the parties and the procedure to be adopted when it is sought to acquire land for public undertakings. The principal innovations in the law are as follows:

(1) The provisions of the Imperial Act 9 and 10 Geo. V, c. 57 (*i.e.* the Acquisition of Land (Assessment of Compensation) Act, 1919), as to the basis of compensation are adopted with slight modifications.

(2) The old system of assessing compensation by the arbitration of two arbitrators and an umpire is abolished, and it is enacted that, in future, disputed claims for compensation will be determined by a Court of competent jurisdiction, sitting without a jury. This means that where the claim is under £500 the local Court, and where it is £500 or over the Supreme Court, will determine the matter.

(3) The promoters are given the right to withdraw from the proceedings for compulsory acquisition upon payment of the landowner's expenses, at any time after receiving the landowner's notice of claim and before proceedings are commenced for determining the compensation.

Poor Persons' Legal Assistance.—Act No. 1689 widens considerably the class of person who is entitled to take civil and matrimonial proceedings *in forma pauperis*, provides for assigning counsel to persons accused of any crime, and establishes the office of Public Solicitor.

Under pre-existing law it was only open to a person to sue or defend *in forma pauperis* if he was not worth £25, tools of trade and wearing apparel excepted. Under the new provisions any person not worth £100 may sue or defend *in forma pauperis*, both in civil and matrimonial proceedings. With regard to criminal cases the old rule laid down in the Criminal Law Consolidation Act, 1876, was that counsel could only be assigned where the penalty for the offence charged was death. Under the Act the judge may assign counsel in any case where the accused person cannot pay for his own defence and the case is one in which the judge considers defence by counsel is desirable.

The Act empowers the Governor to appoint a person as Public Solicitor, and provides that when a Public Solicitor is appointed all proceedings *in forma pauperis* and the defence of every accused person to whom counsel is assigned will be conducted by the Public Solicitor.

Land Agents. — Act No. 1723 requires every person "who acts as agent in respect of the sale or other disposal of land or interests in land or the purchase or other acquisition of land or interests in land" to take out an annual licence. Licences are granted on application to the local Court, and that tribunal is required to satisfy itself, before granting a licence, that the applicant is, having regard to his character and financial position, a fit and proper person to carry on business as a land agent. Further, every land agent must, before being licensed, deposit in the Court a fidelity bond to His Majesty in the sum of £500, conditioned for the proper application of all moneys received by the agent on behalf of clients and the rendering of proper accounts.

State Bank.—Act No. 1703 provides for the establishment of a new Government Bank to be known as the "State Bank." The previously existing institution of the same name was not a bank in the ordinary sense of the term, but rather a Government Department whose function it was to lend moneys belonging to the Crown to persons of limited means in order to enable them to purchase their own homes. The new Bank has power to carry on "the general business of banking," subject to this, that advances by way of overdraft are only to be made to "agricultural, pastoral, rural and primary producers and persons carrying on the industries of treating, processing, packing or making more marketable any kind of primary produce."[1] In addition the Bank takes over the administration of the Advances to Settlers on Crown Lands Acts, 1914 to 1916, the Loans to Producers Acts, 1917 to 1924, the Loans for Fencing Act, 1919, and the Agricultural Graduates Land Settlement Act, 1922. These latter Acts, all designed for the purpose of affording cheap credits to primary producers or intending settlers, have previously been administered by a number of different Departments, and by correlating all the money-lending activities of the Government it is expected that considerable economies will be effected.

Public Service.—Act No. 1716 creates a permanent board known as the Public Service Classification and Efficiency Board. The Board consists of three men, namely, the Public Service Commissioner, a nominee of the Government, and a nominee of the Public Service Association. The functions of this Board are to fix the salary attaching to every office in the public service of the State, to devise means of improving the efficiency of the public service, to prevent over-staffing and promote economy. The salaries fixed by the Board are, however, subject to any determination of the Industrial Court on the same matter.

Police Appeal Board.—Act No. 1676 establishes an Appeal Board to which any member of the Police Force may appeal against any decision of the Commissioner of Police "in regard to the granting or refusal of promotion to the appellant, or the imposition on him of any punishment where such punishment consists of the infliction of a fine, suspension, reduction in rank or pay, dismissal or discharge."

The Board consists of three members, namely, a stipendiary magistrate, a nominee of the Commissioner of Police, and an elected representative of the members of the Police Force.

The decision of the Board is not binding on the Government, but advisory only.

[1] The above restriction as to the persons to whom the State Bank may make advances by way of overdraft was soon found by the Bank to be most inconvenient, and by the State Bank Act Amendment Act, 1926, it was removed.

Taxation (Motor Spirit Vendors).—Act No. 1681 [1] in effect imposes what is popularly called a "petrol tax" of 3*d*. per gallon. The tax is payable by every "vendor" of "motor spirit."

"Motor spirit" is defined as meaning "petrol, naphtha, gasolene, benzol, benzoline, benzine, shale spirit, and industrial alcohol and any other liquid declared by Proclamation to be motor spirit."

"Vendor" means "every person who sells and delivers motor spirit within the State to persons within the State for the first time after the entry of such motor spirit into the State, or, as the case may be, after the production, refinement, manufacture or compounding of such motor spirit within the State, but does not include any purchaser of such motor spirit who subsequently sells the same."

Every vendor is by the Act required to file with the Commissioner of Taxes a quarterly return showing the total number of gallons of motor spirit sold by him during the quarter next preceding the filing of the return and to pay within fourteen days from the filing of the return "an income-tax calculated at the rate of 3*d*. for every gallon of motor spirit sold as aforesaid."

The Act also provides for payment of tax by persons who import motor spirit into the State and use the same for the purpose of propelling vehicles on roads or streets within the State. Provision is also made for refunding to any person who uses motor spirit for purposes other than propelling motor vehicles on roads or streets the sum of 3*d*. per gallon.

Vehicles, Taxation and Licensing.—The Motor Vehicles Tax Act Amendment Act, No. 1686, imposes a new tax upon motor vehicles based upon a factor representing the sum of the weight in hundredweights and the horse-power of the motor vehicle. Motor vehicles tax was formerly imposed upon the basis of the horse-power only. The new tax varies from £3 in the case of a vehicle under 25 power-weights to £16 in the case of a vehicle exceeding 150 power-weights. An additional tax of 50 per cent. is added where the vehicle has any of its wheels metal-tired.

The Vehicles (Licensing) Act, No. 1699, imposes a tax upon horse-drawn vehicles used within the metropolitan area. This tax is based upon the number of hundredweights which the vehicle weighs when unloaded. For every hundredweight up to 25, the tax is at the rate of 1*s*. 6*d*.; for every additional hundredweight up to 40, it is at the rate of 3*s*. 6*d*.; for every hundredweight over 40, the tax is at the rate of 6*s*. 6*d*.

The revenue raised under both these measures is by law required to be credited to a special account at the Treasury known as the Main Roads Fund and used exclusively for building and repairing roads.

4. TASMANIA.

[*Contributed by* C. E. A. Bedwell, Esq.]

Justices.—No. 6 authorizes the Governor to appoint persons resident outside the State to be justices of the peace.

[1] This Act, admittedly experimental, after working very satisfactorily for a year, has been declared by the High Court of Australia to be *ultra vires* the State Parliament on the ground that it imposes duty of excise, a form of raising revenue exclusively within the power of the Commonwealth Parliament.

Banks.—By No. 15 weekly returns of their liabilities and assets must be made by banks to the Chief Secretary.

Shops.—The law on the hours of the closing of shops is consolidated in No. 29. The normal hours of closing during the week-end is from 1 p.m. on Saturday to 6 a.m. on Monday, 6 p.m. being the normal hour of closing from Mondays to Thursdays. Special arrangements are made for small shops in which there are not more than two assistants. Women and children must not be employed for more than 52 hours in a week, nine hours in a day or more than five hours continuously without an interval of not less than three-quarters of an hour for a meal.

Cruelty to Animals.—The law relating to cruelty to animals is consolidated in No. 30.

Traffic.—Vehicular and other traffic is the subject of a consolidation law, No. 38. The procedure adopted is to leave the Governor to incorporate the actual operative provisions in a series of regulations.

Fisheries.—Four Acts passed during the preceding twenty-five years are consolidated in No. 42, confirming the law on the subject of fisheries.

Lambs.—No. 62 is for the purpose of encouraging and improving the lamb-raising industry by means of financial assistance administered by a special Advisory Board.

The greater part of the legislation of the session consists of Acts which in England would be classified as "local and personal" and a number of Acts effecting small amendments.

5. VICTORIA.

[*Contributed by* His Honour Judge Zichy-Woinarski, K.C., *and* Sir W. Harrison Moore, K.B.E., C.M.G.]

Second Session of Twenty-eighth Parliament: Acts passed—51.

Anzac Day.—"In commemoration of the part taken by Victorian troops in the Great War and in memory of those who gave their lives for the Empire the twenty-fifth day of April in each year (being the anniversary of the first landing on Gallipoli of troops from the United Kingdom, Australia and New Zealand)" is to be known as Anzac Day, and observed as a holiday throughout Victoria in the Government services, in banks, factories, shops and warehouses. The provisions of the Licensing Laws applicable to the closing of licensed houses on Sundays are extended to Anzac Day, similarly, as to theatres; and no race meeting may be held on that day (No. 3407).

State Aid to Religion Abolition.—In 1871 (Act No. 391) the provision of £50,000 per annum made in the Constitution Act, 1855, was abolished, and by the same Act provision was made that where lands had been granted, promised or reserved by the Crown to any religious denomination for church purposes, such lands might, on the application of the denomination and with the allowance of the Crown, be disposed of, and the proceeds of disposition applied for the purposes of the denomination as the denomination desires. Every such allowance contains a statement of the trusts upon which the property is to be held. The present Act (No. 3396) confers power on the Government to vary or amend any allowance made so far as relates to the powers of disposition and the purposes to which proceeds of disposition are to be applied set out in the statement of trusts contained in the allowance.

Conveyancing. — Act No. 3409 amends, by adding to the principal Act (No. 2633) the provision of the Imperial Act 12 & 13 Geo. V, c. 16, s. 107 (3), with respect to presumption of survivorship in regard to claims to property, *viz.* where two or more persons have died in circumstances rendering it uncertain which of them survived the other or others, such deaths, for all purposes affecting the title to property, shall be presumed to have occurred in order of seniority.

Judgments (Reciprocity).—No. 3395 extends the provisions of Act No. 3286, which facilitated the enforcement within Victoria of judgments and awards given or made in the Superior Courts of England, Scotland and Ireland, and enables judgments and awards given or made in any part of His Majesty's Dominions outside the United Kingdom and the Commonwealth of Australia to be enforced within Victoria. The condition of enforcement is that the Governor in Council shall be satisfied that reciprocal provisions have been made by the legislature of such part of His Majesty's Dominions for the enforcement within that part of His Majesty's Dominions of Victorian judgments and awards, in which event the Governor in Council may proclaim such part of His Majesty's Dominions to be a reciprocating State for the purposes of the Judgments (Reciprocity) Acts. The Governor in Council may also by Proclamation declare that the said Acts shall extend and apply with respect to any territory which is under His Majesty's protection, or in respect of which a mandate is being exercised by the Government of any part of His Majesty's Dominions (not including the Commonwealth of Australia), as if that territory were part of His Majesty's Dominions (ss. 2 and 3).

Maintenance Orders (Facilities for Enforcement).—No. 3397 makes the necessary reciprocal provisions for the State of Victoria for the extension to this State of the Imperial Act 10 & 11 Geo. V, c. 33. The title describes it as " an Act to facilitate the enforcement in Victoria of maintenance orders made in England and Northern Ireland and other parts of His Majesty's Dominions and Protectorates and *vice versa*."

S. 2 defines " reciprocating State " to be any part of His Majesty's Dominions outside the United Kingdom to which part the Imperial Act intituled the Maintenance Orders (Facilities for Enforcement) Act, 1920, extends or is hereafter extended and which part has been declared under this Act to be a reciprocating State for the purposes of this Act ; " Secretary of State," one of His Majesty's principal Secretaries of State for the time being.

S. 5 makes the necessary alterations in text to adopt and apply the provisions of s. 3 of the Imperial Act enabling provisional orders of maintenance to be made by a Court of Summary Jurisdiction in Victoria against a person who is resident in England or Northern Ireland or in a reciprocating State, just as if a summons had been duly served on the person and he has failed to appear at the hearing. The order is provisional and has no effect unless and until confirmed by a competent Court in England or Northern Ireland or in such reciprocating State. The service is taken in depositional form, and when the provisional order is made in Victoria, the Court sends to a law officer for transmission to the Secretary of State or to the Governor the depositions and a certified copy of the order with a statement of the grounds on which the making of the order might have been opposed if the person had been duly served and had appeared at the hearing, and such information as the Court possesses for facilitating the identification of that person

and ascertaining his whereabouts. If any such provisional order has come before a Court in England or Northern Ireland or in a reciprocating State (as the case may be) for confirmation and the order has been remitted to the Court in Victoria which made the order for the purpose of taking further evidence, that Court or any other Court of Summary Jurisdiction after giving a prescribed notice proceeds to take such further evidence, and if it appears to the said Court of Summary Jurisdiction that the order ought not to have been made it may rescind the order, but in any other case the depositions shall be sent to a law officer and be dealt with in like manner as the original depositions.

S. 6 makes the necessary alterations to adopt and apply the provisions of s. 4 of the Imperial Act empowering a Court of Summary Jurisdiction in Victoria to confirm a maintenance order made by a Court in England or Northern Ireland or in a reciprocating State where the order is provisional only and has no effect unless and until confirmed by a Court in Victoria.

Teachers.—No. 3416 is an Act for the re-classification of teachers engaged in the several classes of schools under the Education Department. As under the principal Act of 1915, classification is entrusted to a committee of three persons, *viz.* the Chief Inspector, a teacher elected by the body of teachers, and a third person, not being an officer of the Department appointed by the Governor in Council. An important change, however, makes a fundamental separation of teachers into two divisions, concerned with the primary and secondary schools respectively, each of which has its own committee of classifiers. The main lines on which the classification is to proceed are indicated by the Act. For primary schools there are five classes of teachers for male and female teachers respectively, so that, in the case of males (for example), for every 44 teachers there are 2 positions in Class I, 3 in Class II, 6 in Class III, 11 in Class IV, and 22 in Class V. Within these classes, the teachers at present in the service are to be arranged according to their order and precedence, after promotions have been considered and determined by reference to (*a*) proved teaching and organizing ability, (*b*) general conduct and interest in work, (*c*) literary qualifications and (*d*) length of service. In the case of the secondary schools there are to be as many positions in each of the five classes of the division as the Public Service Court determined, the relative position of teachers to be assigned according to regulations to be made under the Act. The primary schools classification is to be revised every three years, the secondary schools classification annually. The scale of salaries contained in the Act of 1915, revised in the case of female teachers in 1918, and in the case of all teachers with the rest of the public service in 1920, is further revised. The salaries of male teachers in primary schools now range from £156 to £600 per annum, as compared with from £120 to £500 in 1915; while female teachers range from £120 to £480, as compared with £80 to £250 in 1915. In the division of secondary schools the salaries of male teachers range from £192 to £650, of females from £168 to £528.

Superannuation. — By an Act of 1882 all pensions and retiring allowances were abolished in the case of persons entering the public service after the passing of the Act.[1] Exceptions were made in the case of the judges and the police, though as to the latter superannuation payments were abolished in 1902 in the case of persons becoming members

[1] See Public Service Act, 1915, s. 150.

of the force after that date. In substitution for the pension system, the Public Service, 1883,[1] and as to the police the Police Regulation Act, 1902, required all persons on their appointment to the service to take out and maintain a policy of insurance for an amount fixed by regulation. The policy was to provide for a sum payable on death, or if the officer survived until the retiring age, then for a sum of money or an annuity on retirement, and it was protected against assignment or incumbrance. When the Commonwealth was established in 1901, similar provision was made in the Commonwealth Public Service Act, 1902; but by an Act of 1922 the Commonwealth Parliament passed an Act establishing a superannuation system on the basis of contribution by officers and the Government. Now, by No. 3408, the Parliament of Victoria has taken the same course, following substantially the lines of the Commonwealth Act.[2]

Dried Fruits.—No. 3418 extends the activities of the Board set up under the Dried Fruits Act, 1924. The Board is to prepare in each year for the approval of the Minister an estimate of its requirements in carrying out its functions, "including expenditure to be incurred by the Board in advertising or in any appropriate method for the encouragement of the consumption of dried fruits." The amount required is to be raised by a levy on registered packing-sheds based on the quantity of dried fruits issuing therefrom. The Minister may on the recommendation of the Board determine what proportion of the output in any year is to be marketed outside the Commonwealth, and machinery is provided to give effect to this.

Fisheries.—No. 3415 contains 32 sections and amends the Fisheries Acts (Nos. 2654, 2926).

Part I, General.—S. 2 adds to the definition in the principal Act an interpretation of "fish" and makes it include all or any of the species of marine or freshwater fish (including crayfish and other crustacea) and also species of other marine or freshwater animal life which the Governor in Council by proclamation prescribes to be fish. The crayfish supplied to Victoria are mostly taken in extra-territorial waters, and unlike ordinary fish they carry their ova, after spawning, attached to the body till hatched and need protection against being caught and marketed in that condition. This amendment will enable them to be protected and will protect also mussels, mutton-fish, etc. The principal Act, extending the waters to which it applied to "any part of the sea within a distance of three miles from any part of the coast of Victoria," contained a proviso that it should not apply thereon to any ships, boats or persons other than British ships, boats or persons. This proviso is now repealed.

S. 4 declares any reference to any species of fish to be read and construed as including a reference to either sex of any species of fish, thereby empowering a regulation to be made, *e.g.* for female crayfish during the period they are carrying their eggs.

The power in the principal Act to make proclamations for the regulation of fishing is extended by s. 5 of this Act to cover the marketing of fish obtained from waters outside Victoria.

S. 6 requires fishing licensees to forward a monthly statement to the Inspector of Fisheries of all fish or oysters taken by the licensee and the waters in which they were taken.

[1] See Public Service Act, 1915, s. 41 *et seq.*

[2] See *Journal of Comparative Legislation*, Third Series, vol. vi, pt. ii, p. 61.

S. 8 adopts in substitution of the provisions of the principal Act the provisions of 13 & 14 Geo. V, c. 16, s. 8, dealing with the protection of waters containing fish from poisonous matter and bad effluents.

S. 10 remedies a defect in the Fisheries Acts regarding the marketing of fish in the close season, *e.g.* female crayfish could have been taken from outside territorial waters and retained in captivity, their eggs destroyed and at the end of the close season could have been marketed, and it adds to the provisions of the principal Act a power to make all necessary proclamations as to keeping fish for sale.

Part II deals with oyster fisheries. A new section replaces s. 14 of the principal Act, and it gives authority to the Board of Land and Water to issue "permissions" for oyster culture work, and for working and improving natural or artificial oyster beds already existing which are to be subject to such conditions and limitations as the Board with the approval of the Minister requires, subject to the payment of a yearly royalty on the basis of the quantity of oysters taken. In addition to this royalty, s. 15 requires the holder of the permission to pay a yearly sum as fixed by the Board and it confers on the holder the exclusive right to take oysters from such bed for such period not exceeding twenty-one years as may be fixed by the Board.

S. 16 provides penalties for any person, other than a person who holds an oyster bed under permission, who damages or takes oysters from any such beds without the consent of the holder.

S. 17 requires conditions to be inserted in a "permission" as to (*a*) keeping of records and furnishing of returns; (*b*) the size of marketable oysters and to prevent the taking, consigning, selling or offering for sale unmarketable oysters or oysters not in a condition fit for human food; (*c*) the period of the year during which oysters may be taken from the beds for sale, etc.; (*d*) prohibiting, except with approval by the Minister and upon compliance with prescribed conditions, or regulating the laying down of spat or oysters obtained outside Victoria; (*e*) defraying the cost of surveys; (*f*) resumption by the Crown or any public authority and the amount and mode of compensation.

S. 18 enacts that a "permission" shall give no exclusive rights to the holder to occupy and use any Crown lands abutting on the area held by him except for such purposes and upon such conditions as are fixed by the Board of Land and Water. The said Board is authorized to accept the surrender of any permission, after the second year of its currency, where it appears that oyster culture work cannot be carried on successfully (s. 19).

Any permission for oyster culture, etc., shall be held subject to any law relating to the reclamation of Crown lands; to such conditions, provisions and limitations as may be prescribed and to the right of the Crown and of any public authority to carry out public works upon the area or its immediate vicinity without any liability to pay compensation (s. 20).

The Crown, acting by the Board of Land and Water, may resume wholly or in part any area in respect of which a permission has been granted, provided that compensation is paid (s. 21).

S. 22 provides that if the holder of a permission is at any time in arrear for four weeks or more with the rent or royalty, he shall not be entitled to take oysters or to get further permissions until such overdue rent or royalty is paid.

Power is given to cancel permissions if proper measures are not taken within one year of the date of the permission for the cultivation of the area or upon receipt of a report from the Inspector of Fisheries that the area is being stripped of oysters or otherwise mismanaged, etc. (ss. 23, 24).

A new section replaces s. 18 of the principal Act, and provides that the holder of a permission may, with the Minister's approval, take oysters and oyster brood from natural oyster beds for the purpose of supplying or replenishing the oyster bed so held (s. 26).

Power is given to the Minister to recommend the Governor in Council by proclamation to close oyster beds when deemed desirable, and penalties are provided for taking oysters from such beds contrary to such proclamations (s. 27).

S. 28 enacts that any area as to which a permission has been granted may be described in the permission by reference to posts, stakes, buoys, marks, connexions or natural features showing the limits of the area in a manner sufficient to allow of their identification and penalties are provided for the wilful destruction, obliteration or removal, etc., of such posts, stakes, etc.

Part III deals with the powers of inspectors to make entry on lands for the purposes of the Acts (s. 31), and extends the provisions of the principal Act as to the making of proclamations, as to the terms and conditions, etc., under which permissions may be granted and as to their transfer, as to making records, as to the limitations of the size of oysters for sale, as to close season, as to spat and oysters obtained outside Victoria, as to royalties, etc., etc. (s. 32).

Game.—No. 3398 amends the principal Act (No. 2658). S. 2 empowers the Governor in Council to alter the close season periods for native game and also to remove (apart from altering) the name of any bird or animal, not being native game, from this list of protected game.

Ss. 3 and 4 increase the penalties for killing or destroying native game out of season, and for buying, selling, consigning or having feathers, skins, etc., of game or of native game killed in close season. A subsection of s. 4 has the following provision in respect of egrets whether alive or dead and whether taken or killed or destroyed in Victoria or elsewhere and whether before or after the commencement of the Act: "(*a*) Any person who buys sells consigns or knowingly has in his possession house or control any such egret shall be liable to a penalty of not more than £5; (*b*) any person who buys sells or consigns or knowingly has in his possession house or control any flesh skin feathers or other portion of any such egret shall be liable to a penalty of not more than £5;" and it also empowers the Governor in Council to apply the provisions of this subsection to any bird or animal being game or native game.

S. 5 increases the penalties provided for using poison to kill game or native game from the present maximum of £10 to a maximum of £20 for a first offence and to imprisonment for not more than six months for a second or subsequent offence. It enacts also that in the case of persons found offending and where the poison used is potassium cyanide or any of the compounds of cyanogen, he shall be liable in lieu of the aforesaid penalty or imprisonment to imprisonment for twelve months and in addition (if any game or native game is so killed destroyed or injured) to a monetary penalty for each head of game or native game so killed, destroyed or injured.

The power given to inspectors, police, etc., to enter without warrant any store or shop and the premises tenanted therewith in which there is reason to believe game or native game or eggs, skins, feathers, etc., of such and to seize and take possession of the same, is extended to entry on any private land (but not any house thereon), and it is further provided in this extension that upon conviction of any offender he shall be liable in addition to the penalty provided to pay any expenses incurred in the seizure, carriage and disposition of the game or articles seized (s. 9).

S. 12 gives to the Court before whom any person is convicted under the Game Acts the power to order that such person shall not have in his possession, use or carry a gun for three years thereafter under a penalty of not more than £10, unless he uses or has it for the sole purpose of destroying any pest or vermin on any land owned or occupied by him and holds a permit from the Minister for such purpose.

The Minister may, by s. 13, issue licences to take and kill opossums —the licence to specify (*a*) the particular species that may be killed or taken; (*b*) the areas in or from which they may be taken or killed; (*c*) the number that may be killed or taken; and (*d*) the period for which the licence is to run; and the licensee must produce the licence if and when required by inspectors, police, etc.

The Minister may also, by s. 14, issue licences, on such conditions and with such limitations as may be prescribed by Proclamation, to dealers in skins of opossums, and only licensed dealers may carry on such dealing under a penalty of not more than £100, and such licensees must produce their licences if and when requested by inspectors, police, etc. The Governor in Council may by Proclamation exempt any class of persons carrying on the business of dealing in the skins of opossums from this provision regarding a licence.

The Governor in Council is authorized by s. 17 (*a*) to regulate the method of buying, selling, storing or marketing the flesh, skin, feathers, etc., of game or native game; (*b*) to prohibit the use of birdlime or any other similar substance or mixture for the taking or capture of any bird (whether game or native game or not) and also to prohibit the use of any method or any substance to take, kill or hunt native game; (*c*) prescribe the forms of licences to take or kill opossum and of licences to licensed dealers in opossum skins, and make provision with respect to the classes of persons who may be exempted therefrom; (*d*) prescribe the manner in which the grounds upon which licences may be revoked, etc.; (*e*) prescribe the modes which may or may not be employed by licensees to take or kill opossums; (*f*) make regulations as to the possession, inspection, etc., of skins of opossums; (*g*) and prescribe the record to be kept and the returns to be furnished by licensed dealers in opossum skins.

S. 18 amends the terms of s. 37 of the principal Act, which empowered the Governor in Council to make Proclamations prohibiting acts in contravention of the Game Acts so as to include a power to prevent the sale in Victoria of native game which, being killed in Victoria, have been sent to another State, and then sent back to Victoria for sale; and to prevent also the sale in Victoria for such period as may be fixed by Proclamation the selling of native game, whether taken or killed or destroyed in Victoria or elsewhere or the flesh, skins, feathers or other portion of such native game.

S. 19 permits the informant for an offence against the Acts to appear

personally or by some officer in the Public Service nominated in writing by the Inspector of Fisheries either generally or in any particular case.

Horse Breeding.—No. 3406 amends the principal Act (No. 3040) and provides (1) that an owner of a stallion who applies for its registration and finds that the veterinary officer reports it is not sound may now request that it be examined by the appeal board; (2) if the veterinary officer reports the stallion is not of approved standard, the owner may similarly request that it be examined by the appeal board. Such appeal board consists in the first of these two cases of the chief veterinary inspector and two registered veterinary surgeons, one of whom may be nominated by the owner of the stallion and one by the Chamber of Agriculture; and in the second case, it consists of the chief veterinary inspector and two members chosen from a panel of competent persons appointed by the Minister to be members of such panel, one of whom may be nominated by the owner of the stallion and one by the Chamber of Agriculture. A fee of not less than £4 and not more than £10 is fixed for such examination. The appeal board reports to the Minister, who then makes an order with respect to the registration or not of the stallion so reported upon. It is within the power of the appeal board to postpone its decision for a period not exceeding twelve months. It is within the power of the owner of a stallion who applies for its registration and finds that the veterinary officer reports it not to be of approved standard, to give a written notice that he is dissatisfied with such report and to give a written undertaking that such stallion until registered will not be used for breeding purposes except only with mares of the owner and only for a period of twelve months, at the end of which time he must resubmit the stallion for registration (s. 2).

The owner of any stallion who applies for registration thereof must supply a verified statement of the name and address of the person who bred it and of the person from whom the owner bought it (s. 3).

The owner of any stallion which has been refused registration may, on payment of a fee of £1 and certain notification, retain it in his possession in an uncastrated condition and use it for breeding purposes with his own mares only, and a list is to be published yearly in the *Journal of the Department of Agriculture of Victoria, Australia*, of all such unregistered stallions (s. 4).

Under the principal Act a stallion is examined every year until he is five years of age, and this amending Act provides that if a certificate of registration has after the commencement of this Act been issued in respect of any stallion, it is not to be refused (after the first registration) on the ground that the stallion is not of approved standard (s. 5).

To overcome a difficulty owners of stallions experienced in the importation of stallions, it is now provided that the Minister may nominate one or more veterinary surgeons in any country from which the export of stallions to Victoria is permitted whose certificate in respect of soundness and approved standard is to have all the force and effect of a report of a veterinary officer under the principal Act (s. 6).

Lastly, this Act provides for compensation for owners of stallions which having been registered are subsequently refused registration on the ground of unsoundness. A compensation fee (not exceeding £3) must now be paid on application for registration, and such fees form a fund to meet claims for compensation (s. 7). The compensation payable is, in the case of an owner who at the time of such refusal is *the person*

who bred the stallion, £30 for each year of the age of the stallion but not exceeding £150; and in the case of any such owner who *is not the person who bred the stallion but has acquired the same by purchase,* an amount equal to 75 per cent. of the price at which he bought it plus shipping freight if it was purchased overseas; and in any other cases such amount as is determined by the Minister (s. 8).

The conditions for the payment of this compensation are (*a*) that the stallion has been submitted to examination in each year following the first year of registration until it is five years of age or until registration is refused (whichever first happens); (*b*) that the chief veterinary inspector is satisfied that the animal has been completely castrated (s. 9).

The term "owner" is defined to mean the owner of the stallion and not to include a lessee or person in possession or charge of any stallion (s. 11).

Poisons.—Act No. 3401 supplements and is ancillary to the legislation on poisons contained in the Acts of 1915 and 1920. It is now made an offence for any person to have in his possession without lawful authority (the proof of which authority shall be on such person) any of the following substances, *viz.* morphine, cocaine, ecgonine, diamorphine (commonly known as heroine) and their respective salts and derivatives, and medicinal opium, under a penalty of £100 or twelve months' imprisonment.

Sewerage Districts.—Act No. 3437 amends in various particulars the principal Act of 1915. Amongst other things it provides that no person shall be appointed to the office of engineer or to any office which would place him in engineering charge of the construction of any sewerage works under the Acts unless (*a*) he is a corporate member of the Institution of Civil Engineers of London or of the Institution of Engineers (Australia) or a graduate in engineering of a university of an Australian State or of New Zealand or of a university of the United Kingdom or of any other university where graduates in engineering are admitted to the University of Melbourne *ad eundem gradum*; or (*b*) he holds a certificate of qualification as an engineer of water supply under the Water Acts or a certificate of competency or qualification as a municipal surveyor under the Local Government Acts.

Motor Omnibuses.—No. 3439 amends the Act of 1924, No. 3378. S. 2 substitutes for the original definition of motor omnibus the definition "any motor-car within the meaning of the Motor Car Act, 1915, with seating capacity for not less than eight passengers and used or (where the case so requires) intended to be used for plying for hire within the metropolitan area at separate and distinct fares for each passenger of not more than one shilling and sixpence for each single journey or three shillings for each return journey." It defines "plying for hire" to include a reference to carrying passengers from one place to another in the metropolitan area or from a place in to a place outside of the metropolitan area, or from a place outside of to a place in the metropolitan area.

S. 4 enables the Governor in Council to prescribe developmental routes, and the conditions on which these routes are granted are: (*a*) that no part shall be within three miles of the Town Hall in the city of Melbourne; (*b*) that the Minister must be satisfied that there are no regular facilities available (whether on such routes or within a reasonable distance therefrom) for the conveyance of passengers. Then s. 3 of the

principal Act is to apply to those developmental routes, *i.e.* motor omnibuses may ply for hire on them, etc.

S. 9 deals with substitute buses enabling the licensing authority to grant a " regular service " licence for any motor omnibus as a substitute motor omnibus. This licence is conditioned that the motor omnibus shall not be used otherwise than in the place of another motor omnibus of the same owner for which a " regular service " licence is in force. If the number of regular service omnibuses does not exceed eight one substitute omnibus will be allowed, and if the number exceed eight but does not exceed sixteen an additional substitute omnibus will be allowed, and so on for each additional series of eight. It is required that each substitute omnibus shall affix and keep affixed an identification plate indicating that it is a substitute omnibus, such plate to be easily distinguishable by night or day.

Street Traders.—No. 3421 regulates " street trading " in regard to males under the age of fourteen years and females under the age of twenty-one years in the city of Melbourne or in any other municipal district to which the Governor in Council may extend the Act. Street trading is defined to mean (*a*) the selling, offering or exposing for sale in a public place (i) any newspaper, card, book, ticket, programme or other printed matter, (ii) any matches or flowers ; (*b*) playing, singing or performing for profit, or boot and shoe cleaning. The term is, however, not to include (*a*) the occasional selling of any of the articles aforesaid or the occasional playing, singing or performing as aforesaid if the net proceeds thereof are to be or are wholly applied for any charitable or public purpose or for the benefit of any school or church ; (*b*) anything done by any person (i) in the discharge of his duty as an employee of the Council of a municipality, or (ii) under the authority of any Act of Parliament (other than this Act) or of any licence, registration, permit or authority granted or issued under any such Act (s. 4).

The administration of the Act is placed in the hands of the Children's Welfare Department and of the Minister administering the Children's Welfare Acts (s. 2). The Act establishes a Street Traders Licences Board, with its chairman an officer of the Children's Welfare Department, and three other members, of whom one shall be an adult person appointed as representing the association in Melbourne known as the City Newsboys' Society (s. 5). Power is given to the Governor in Council to make regulations with respect to such street trading, and the granting of licences, etc., and no licence is to be granted to any male under the age of twelve years and to any female under the age of twenty-one years (s. 6).

Nothing in the Act or regulations is to affect the provisions of Act No. 2811, s. 2, so far as the same relates to stands in streets, roads and public places for street hawkers and itinerant traders or to make it necessary for the holder of a hawker's and pedlar's licence to be licensed under this Act (s. 8).

6. WESTERN AUSTRALIA.

[*Contributed by* F. L. Stow, Esq.]

The second session of the twelfth Parliament of Western Australia lasted from July 30 until December 19, 1925. During the session fifty-one public and three private Acts were passed. The public Acts which may be thought to be of some general interest are reviewed below.

Group Settlers' Advances.—Western Australia's group settlement scheme has been hitherto almost entirely unregulated by legislation, but it has been found necessary to provide some legislative regulation by two Acts of this session. Act No. 2 provides some security for advances made by the Government to settlers, either in money or kind. It enacts that whenever live stock or other chattels are supplied by the Department of Lands and Surveys to a group settler, and whenever advances are made, and so far as advances have hitherto been made by such Department to a group settler to enable him (*a*) to acquire live stock or other chattels, or (*b*) to cultivate, crop or improve a holding, such live stock and chattels (including the progeny of live stock) and the crops raised on such holding, while growing and afterwards when cut or severed from the soil, shall, by force of the Act, be mortgaged to, and the property therein shall vest in, the Minister for Lands, on behalf of the King, until the money due from such group settler to the Department, in respect of such chattels or advances, shall have been repaid.

Ministers' Titles.—Some relics of the old Crown Colony days are swept away by this Act (No. 8), which substitutes for the title " Colonial Treasurer " the title of " Treasurer," and " Chief Secretary " for " Colonial Secretary."

City of Perth.—Act No. 11 is designed mainly to enable the city, when taking land for the purpose of opening, extending, diverting, altering or widening streets, to acquire not only the land necessary for the purpose, but also such land on either or both sides of the proposed new street or extended or widened street for such depth as the City Council may think fit. The Council will have power, with respect to land so acquired under this Act, to demolish or improve existing buildings thereon, erect buildings on, or generally improve the land, and sell or lease such land. The Council will thus be able to secure to itself some of those direct benefits of improvements effected in the lay-out of the city which would otherwise be secured by individual landowners.

Divorce.—Act No. 23 permits of a divorce being decreed on the ground that the respondent, being the petitioner's husband,

(i) Is separated from the petitioner under a decree or order of a competent Court or by virtue of a deed of separation, and has been so separated for a period of three years and upwards ; and

(ii) Is, and has been during the period aforesaid, liable by virtue of a decree or order of the said Court or of a covenant in the said deed to make periodical payments to the petitioner, or to some person on her behalf, by way of alimony or for the maintenance and support either of the petitioner alone or of her and any child being offspring of the marriage ; and

(iii) Has during the period aforesaid failed to make such payments periodically as required by the decree, order or covenant, either entirely or repeatedly and habitually.

Vermin.—By Act No. 29 the Vermin Act, 1918, is extended to the whole State. It was previously confined in its operation to the South-western Division—the rest of the State being subject to the earlier Act of 1909.

An important enactment contained in this measure is that providing that every owner of a holding shall pay to the Minister annually on demand a rate of such amount as may be fixed by the Minister, not exceeding one penny in the pound of the unimproved capital value of

land held under pastoral lease, or one halfpenny in the pound of the unimproved capital value of other holdings. Owners of holdings fenced with a vermin-proof fence, and of holdings situated within municipalities or town sites, are exempted from this rate.

Rates collected under this provision are to be paid to the credit of an account to be kept at the Department of Agriculture, and are to be applied, under the direction of the Minister, in payment of a uniform bonus for the destruction of wild dogs, eaglehawks, and foxes and any other vermin which may be brought within the scope of the enactment by the Governor.

General Loan and Inscribed Stock.—No. 31 amends the law by providing that interest on inscribed stock and debentures issued by the State Government after January 1, 1926, shall not exceed 5 per cent. per annum.

It is further provided that sinking fund contributions for the redemption of loans issued by the Government of the Commonwealth on behalf of the State may accrue from the date of issue of the loans, and shall be paid to the Commonwealth Government.

Parliamentary Allowances.—Act No. 32 increases the allowance payable to each member of Parliament to £600 a year.

Gun Licences.—Act No. 40 prohibits the granting of any licence to carry firearms to any Asiatic or African alien or to any person of Asiatic or African race claiming to be a British subject, except with the approval of the Treasurer; and it further provides that no Asiatic or African shall carry firearms in any part of the State unless he is the holder of a gun licence. The Act does not apply to persons of the Jewish race.

Bills of Sale.—The mischief which is intended to be met by this Act (No. 41) arose from the fact that, if the chattels comprised in an unregistered bill of sale were not in the possession or apparent possession of the grantor at the time of his bankruptcy, or (in the case of a company) winding up, even though possession had been retained till the grantor was on the very verge of bankruptcy, then the bill of sale was good as against the creditors, notwithstanding the want of registration and in spite of any irregularity therein. The remedy provided is that an unregistered or irregular bill of sale shall be deemed to be fraudulent and void as against: (*a*) the Official Receiver or the trustee or liquidator of the estate of the grantor; (*b*) the trustee acting under any statutory deed of assignment for the benefit of the grantor's creditors; so far as regards the property in, or right to the possession of, any chattels comprised in such bill of sale which, within three months before the time of the commencement of the bankruptcy or winding-up proceedings or the execution of the deed of assignment, were in the possession or apparent possession of the grantor. Exception is made in favour of *bona fide* purchasers for value, for it is provided that nothing in the Act is to affect the right of any person making title to any chattels through or under any grantee of a bill of sale, in good faith and for valuable consideration, by virtue of any sale or other disposition effected whilst the chattels were not in the possession or apparent possession of the grantor.

Miners' Phthisis Amendment.—It is provided by the Miners' Phthisis Act, 1922, that, where a miner affected with tuberculosis has been prohibited from continuing to work as a miner, it is the duty of the

Mine Workers' Relief Fund Incorporated (an association established for the relief of miners) to insert the name of such person on a register to be kept for the purpose, and any person whose employment is so prohibited and whose name is so registered shall have the right to receive from the Department of Mines compensation equal to the ruling rate of pay in the district in which he was working, until suitable employment can be found for him. This amendment (No. 42) provides that, if the principal medical officer certifies in writing that a person whose name is so registered becomes unable to work at any suitable employment, compensation under the aforesaid provision shall cease to be payable, but such person shall be entitled to receive from the Department of Mines compensation equal to that prescribed by the scale of relief in force under the rules of the Mine Workers' Relief Fund Incorporated.

Provision is also made for compensation being payable to dependents in the event of the prohibited person's death. Compensation will not, however, be payable under this Act to any person entitled to receive compensation under the Workers' Compensation Act, 1912–1924.

Land Drainage.—No. 43 is a comprehensive measure providing for the drainage of land and the constitution of drainage districts and boards. The local boards for the administration of the Act in the various districts will be elected by the ratepayers in the same way as Road Boards are elected, and the constitution of a Drainage Board will be similar to that of a Road Board.

Boards will have powers of constructing and maintaining drainage works within their respective districts.

Notwithstanding the existence of a board, the Minister will also have the right to construct and maintain works in a district.

The Governor may place any drainage works vested in the Minister or the Crown, whether the same have been constructed by the Minister or not, under the management or control of the board of the district in which such works are, or may vest such works in such board. A board is responsible for the cost of works vested in it, and must pay the interest on the amount, and also provide for its liquidation by means of contributions to a sinking fund; but the Minister may declare any such works to be of a national character, and relieve the board of the whole or some part of its liability for the cost thereof.

The Act makes provision for the construction by landowners, either voluntarily or compulsorily, of branch drains to carry the water from their lands into the main drains.

Boards are given wide powers of rating and of borrowing money for the purposes of the Act.

Group Settlement.—No. 44 is another Act for the regulation of the Group Settlement Scheme. It enables the Governor to grant, for an estate in fee simple, to any person who is one of a group of settlers on an area proclaimed as a group settlement area, a parcel of land within such area to be held as a free homestead farm, and such land may exceed the limit (160 acres) imposed by law on free homestead farms.

The Governor is also enabled to grant to any person a conditional purchase lease of land acquired by the Crown and situated within an area proclaimed to be a group settlement area.

Every grant and every conditional purchase lease under this Act is to be issued subject to the payment by the grantee or lessee of such part of the expenditure on the group settlement area chargeable to the

group settlers (including capitalized interest) as is apportioned to the parcel of land intended to be granted or leased.

A group settler, instead of paying forthwith the amount thus charged against him, may execute a mortgage to the Agricultural Bank to secure such payment, with interest at the prescribed rate, by instalments extending over a period not exceeding thirty years.

If a group settler shall not in due time notify the Department of Lands and Surveys of his acceptance of the grant or lease when tendered to him on the conditions and subject to the provisions set forth in this Act, he is to cease to have any interest in the parcel of land intended to be granted or leased, notwithstanding that, under any agreement or permit to occupy in furtherance of a scheme of group settlement, he is or may have been in occupation thereof.

All moneys received by the Agricultural Bank in payment of interest and in repayment of principal on, and in respect of, mortgages to the Bank under this Act are to be paid to the credit of a suspense account to be kept at the Treasury.

The amount standing to the credit of this account, after payment to the Bank of a certain percentage for administrative expenses and to consolidated revenue of interest and sinking fund contributions for loan money appropriated for the purposes of the group settlements to which this Act extends, is to be applied to such purposes relating to group settlement as Parliament approves or (in respect of interest received) as the Governor thinks fit.

Though the general scheme for the development of a group settlement requires that the members co-operate in clearing and preparing the land as a whole, working under Government direction and receiving sustenance payments from the Government, the blocks being allotted to individual members when the whole of the land is ready for use subject to payment of an apportioned part of the expenses, yet this Act provides that grants or conditional purchase leases may be issued although all the blocks of a group have not been prepared for settlement, and that a group settler to whom a grant or lease is made or tendered in respect of a block allotted to him may be released or discharged from group work, and the group may be partially dissolved.

Taxation of Motor Spirit.—This Act (No. 49) imposes a duty of 3*d.* per gallon on petrol and similar substances used in the State for the propulsion of motor vehicles. The intention is to exact from users of motor vehicles a special contribution towards the upkeep of main roads, and the net proceeds of the tax are appropriated for that purpose.

The Act is qualified by a provision that if under any law of the Commonwealth, a tax is imposed on motor spirit and appropriated to the purpose of main roads, the tax imposed under this Act shall be reduced by so much thereof as is equal to the tax imposed under the Commonwealth law.

Industrial Arbitration.—No. 50 is a long measure which makes numerous important amendments in the law relating to industrial arbitration.

The principal Act of 1912 had only a limited application to the Crown. This enactment brings the Crown within the scope of the Industrial Arbitration law as an employer of labour; but the salaried staff of the Public Service and the State Railways, together with the Teaching Staff of the Education Department, will remain, as at present,

subject to their own particular Acts, and the Industrial Arbitration Act will not apply to them.

The President of the Industrial Arbitration Court will not, as heretofore, be a judge of the Supreme Court, but will be a person qualified for appointment as a judge. He will thus be able to devote the whole of his time to industrial work, and will not be liable to be called upon to perform judicial duties in the Supreme Court.

The chief characteristic of this measure is the power which it gives the Court to delegate the exercise of portions of its power to other bodies. Thus when it appears that a question has arisen as to the right of workers in specified callings to do certain work in an industry to the exclusion of workers in other callings, the Court may constitute a special board, on which all parties interested will be represented, to determine the question, and the determination of such board is to be adopted by the Court for the purposes of any award or order made by the Court.

The Act also provides for the creation of Industrial Boards. Such boards may, on the recommendation of the Court, be constituted by the Governor for any calling, industry or undertaking recommended by the Court. An industrial board must be constituted of members so nominated by the Governor as to give equal representation to employers and workers, and is to be presided over by a chairman appointed by the nominated members, or, if they cannot agree, by the Governor.

The functions of an Industrial Board are : (i) the making of an award in any industrial dispute remitted to the Board by the Court ; or (ii) the making, after inquiry, of recommendations to the Court as to the regulation of any calling or callings for the purpose of enabling the Court to make an award ; or the inquiry into and report on any matter remitted to the board by the Court.

The remission or reference of any matter by the Court to an industrial board does not preclude the Court from further action, for the Court is not bound to act on the recommendation of the board, and it may always revoke a remission and take the matter into its own hands, and an appeal lies to the Court from any decision of the board.

Boards of reference, also, may be appointed by the Court for the purpose of allowing, approving, fixing, determining or dealing with any matters or things which may arise under or out of an award.

The power of reviewing and revising industrial awards is considerably increased by this Act. In fact the Court may review an award at yearly intervals.

Another creation of this Act is the Industrial Magistrate. Any police or resident magistrate may be appointed an industrial magistrate, and he will have power (concurrently with the Court) to enforce awards and industrial agreements by imposing penalties for breaches thereof. He will likewise have power to punish persons committing offences against the principal Act or any amendment thereof. An industrial magistrate will not, however, have any power to interpret an industrial award or agreement, but must refer any such question to the Court.

Conciliation committees are another feature of the measure. The Minister is given power to constitute districts and to constitute for any district a conciliation committee for the prevention or settlement of industrial disputes connected with the district.

Conciliation committees may thus be constituted for all callings or for any specified calling or callings.

If such a committee brings to pass an agreement between the parties concerned in any dispute, such agreement, on being filed in the office of the Court, becomes an industrial agreement and enforceable as such.

An outstanding feature of the Act is the provision for the determination of a basic wage. As a guide to the Court the Act provides, by way of definition, a somewhat cryptic formula, borrowed from the principal Act. "Basic wage" is declared to mean a sum sufficient to enable the average worker to whom it applies to live in reasonable comfort, having regard to any domestic obligations to which such average worker would be ordinarily subject.

The Court by its first decision on this matter, though there was some diversity of opinion among the members, found that the "domestic obligations" averaged a wife and two children under the wage-earning age, and the basic wage was fixed at £4 5*s*. per week.

This wage has to be fixed annually before June 14, and is in force for one year from the ensuing July 1. Awards and agreements made before the first declaration of a basic wage may be varied so as to bring them into conformity with the decision of the Court in reference to the basic wage, but if no application is made to the Court they are unaffected.

Other awards and agreements must be based on the basic wage for the time being in force, and if any alteration is made in that wage the industrial awards and agreements in force at the time of the alteration will be automatically changed so far as to bring them into conformity with the basic wage as altered. No minimum wage must be fixed by the Court at a figure lower than the basic wage, except that in the case of aged, infirm or junior workers the Act gives a power to prescribe a lower rate.

New provisions are added relating to apprentices.

An apprenticeship board is established in connexion with the building trade, and every apprentice in that trade must be placed from time to time with an employer under an agreement of apprenticeship between the board, the apprentice and the employer, with power reserved to the board to abrogate any agreement and to transfer the apprenticeship from one employer to another.

It is provided with regard to apprenticeships generally that no premium is to be taken, that all indentures must be presented for registration, and the Court may determine whether the same shall be registered after an opportunity has been given to industrial unions of workers or employers in the industry to object. The Court is also given power to make regulations relating to apprenticeship and service under indentures.

Main Roads.—No. 51 provides for the constitution of a "Main Roads Board" which shall be charged with the construction and maintenance of main roads. The board is to consist of three members, two of whom shall be engineers qualified by training and experience in modern road-making, and the third member is to be a skilled administrator.

The Governor may, on the recommendation of the board, declare that any road shall be a main road or cease to be a main road; but before making any recommendation the board shall give the local authorities an opportunity of objecting; and if the objections of any such authority are overruled it may appeal to the Minister.

The Governor may authorize and empower the board to provide and set out main roads.

The control and management of all main roads will vest in the board, who may make, improve and maintain all main roads, and shall have in regard thereto the powers of a local authority.

The powers of the local authorities over any main road are not taken away, but the exercise of such powers is to be subject to the control and direction of the Minister.

The Governor may (*a*) declare any road to be a developmental road ; (*b*) authorize the board to lay out and provide such road.

All developmental roads are to be handed over to the local authorities.

In order to be a developmental road a road must possess the characteristic of serving to develop any district or area of Crown or private land by providing access to a railway station or a shipping wharf, or to a road leading to such a station or wharf.

There is to be a Main Road Fund, which is to include the following items : (*a*) such proportion of the land tax as Parliament determines ; (*b*) the net receipts from the motor spirit tax ; (*c*) payments received from the local authorities under this Act ; (*d*) amounts received by the State Government from the Commonwealth under the Federal Main Roads Development Act, 1923 ; (*e*) moneys appropriated by Parliament for the purpose of this Act.

This fund is to be applied, after discharging the costs of collection and the costs incidental to the exercise of the functions of the board, in such manner and proportions as the Governor, on the recommendation of the board, determines, to defraying the cost of main and (subject to certain conditions) of developmental roads.

The Act directs that the board shall, before June 30 in each year, apportion half the amount expended on permanent works and maintenance on main roads during the preceding year between the various districts benefited thereby.

The board has to determine the amount to be contributed by each district, after giving the various local authorities an opportunity of being heard, and the determination arrived at is, upon confirmation by the Governor, to be final.

7. PAPUA.

[*Contributed by the* Hon. Mr. Justice Herbert.]

In all seventeen Ordinances were passed during the year, of which the following may be noted :

Electric Light and Power.—The Port Moresby Electric Light and Power Ordinance (No. 2) provides for the appointment of an Electric Authority who exercises his powers under the Ordinance on behalf of the Government. The principal powers given to him include those of the construction, operation, control and maintenance of electric lines, the generation, supply and sale of electricity in the town of Port Moresby and within three miles of the town. There are other powers of a subsidiary nature. Wide powers for the making of regulations are given to the Lieutenant-Governor.

Central Court.—By the Papua Act, 1924 (Commonwealth),[1] an amendment was made in the Papua Act, 1906–1920 (Commonwealth), whereby the designation of Chief Judicial Officer (and incidentally that

[1] See *Journal of Comparative Legislation*, Third Series, vol. viii, pt. ii, p. 127.

of Deputy Chief Judicial Officer) was dropped and the term "Judge" was substituted. The Central Court Ordinance (No. 7) now gives effect to this change in terminology and provides that all references in the laws of the Territory to the Chief Magistrate (a one-time title of the only judge of the Court) or to the Chief Judicial Officer or Deputy Chief Judicial Officer shall apply to a judge of the Central Court. The Ordinance provides that the Central Court shall be constituted by a judge or an acting judge of the Central Court sitting as such Court and makes provision for appointment of acting judges.

Reciprocal Enforcement of Judgments.—No. 8 provides for the registration and enforcement in Papua of judgments of the superior Courts in the United Kingdom. It also gives power to extend the provisions of the Ordinance to any part of His Majesty's Dominions (including Protectorates and Mandated Territories) where the Lieutenant-Governor is satisfied that reciprocal provisions have been made by legislation.

Export Tariff.—The Customs (Export) Tariff (No. 10) imposes duties upon the export of copra, mother-of-pearl shell and pearls, at rates specified in the Schedule.

Cotton.—No. 11 provides power for the Lieutenant-Governor to make regulations for all or any purposes tending to the improvement of the cotton-growing industry in the Territory.

Immigration Restriction.—The Immigration Restriction Ordinance (No. 14) amends the Immigration Restriction Ordinance of 1907. Where the Lieutenant-Governor is satisfied that within five years of the arrival in the Territory of any person not born in the Territory that person (*a*) has been convicted of a criminal offence punishable by imprisonment for one year or longer, or (*b*) is a danger to peace, order or good government, or (*c*) repeatedly acts in a manner which is inimical to the best interests of natives, he may call upon that person to show cause before a magistrate why he should not be required to leave and remain out of the Territory. If the person fails to appear or the magistrate recommends that he be ordered to leave the Territory, the Lieutenant-Governor may (with the concurrence of the Minister for Home and Territories) order him to leave and remain out of the Territory.

Native Plantations.—No. 16 repeals the Native Plantations Ordinance, 1918–1922. In principle and general outline the Ordinance of 1925 is very similar to those which it repeals. Where alterations have been made they are so made in order to meet the requirements that past experience in the working of native plantations has shown to be necessary. Among them the following may be mentioned: This Ordinance expressly permits and seeks to encourage natives other than taxable natives to work voluntarily on these plantations, and if they do so they may participate in the division of the moiety of the annual produce. A taxable native in lieu of payment of his tax, instead of cultivating a prescribed area (as under the repealed Ordinance) must now work the prescribed number of days on a native plantation, if there be one within five miles of his village. A just proportion of the tax is to be remitted for the period actually worked.

Mineral Oil and Coal.—No. 17 amends the Mineral Oil and Coal Ordinances, 1923. The effect of the principal amendments will be that (1) the licensee who discovers payable mineral oil on the area included in his licence will have an exclusive right (instead of a preferential right) to a mineral oil reward lease of four square miles (instead of 640 acres

as heretofore); (2) a licensee discovering coal will have an exclusive instead of, as heretofore, a preferential right to a coal lease of 640 acres. A mineral oil lease will not now contain a covenant to fence the land.

IV. NEW ZEALAND.

[*Contributed by* J. CHRISTIE, ESQ., LL.M., *Parliamentary Law Draftsman.*]

Acts passed: Public and General—54; Local and Personal—13; Private Acts—3.

Of the fifty-four public Acts passed during the session, nine are in the nature of consolidating measures. Of these nine, five (namely, the Industrial Conciliation and Arbitration Act, the Rating Act, the Valuation of Land Act, the Local Elections and Polls Act, and the Electric Power Boards Act) were prepared by the Compiler of Statutes[1]. These enactments are compilations of the existing law and make no material changes in it. They are, however, new enactments (repealing the former law) and not merely reprints or official compilations.

The other consolidating measures (namely, the Land for Settlements Act, the Weights and Measures Act, the Coal Mines Act, and the Nurses and Midwives Registration Act) are more than consolidating measures. In many respects both the language and the substance of the law have been altered. Their preparation, therefore, does not fall within the duties of the Compiler of Statutes.

The legislative activity of Parliament during the session was somewhat limited by two factors. In the first place, the lamented death of the Right Hon. Mr. Massey left vacant the office of Prime Minister. After an interval, during which the office was temporarily held by the Hon. Sir Francis Bell, Attorney-General, the Hon. Joseph Gordon Coates, M.C., was selected as Prime Minister. The new Prime Minister definitely announced his intention of carrying through Parliament only those measures that had formed part of his predecessor's political programme, and this statement of intention was adhered to. The other determining factor was that Parliament was due to be dissolved and a general election to take place before the end of the year. The session lasted only three months instead of from four and a half to six months (its normal period of life), and the size of the Statute Book is tangible evidence of the legislative energies of the New Zealand Parliament.

The following is a review of the more important measures:

Cook Islands.—No. 2 is an authorizing measure to enable the Government to put into operation its agreement with the Government of Fiji for the treatment at the Government Hospital at Makogai (Fiji) of persons found to be suffering from leprosy. The Act empowers the Resident Commissioner to order the transfer of any person so suffering, and every such person may, if and when cured, demand as of right that he

[1] E. Y. Redward, Esq., who was appointed as Compiler of Statutes on the resignation from that office of Sir Frederick Chapman. Mr. Redward has been Editor of the Index to the Laws of New Zealand since 1895; and prior to his appointment as Compiler of Statutes was a Crown solicitor on the staff of the Crown Law Office.

be returned to his home. As a matter of fact, no difficulty has been experienced or is anticipated in obtaining the consent of these afflicted people for their transfer to the better conditions of Makogai.

Subsidy for Manufactured Iron.—The Iron and Steel Industries Amendment Act (No. 4) (*a*) increases from 12*s.* to 30*s.* the "bounty" payable out of the Consolidated Fund in respect of every ton of pig-iron manufactured in New Zealand; and (*b*) extends by three years (*i.e.* up to March 31, 1934) the period for which bounties may be paid in respect of pig iron, puddled bar iron, or steel manufactured in New Zealand.[1]

The Massey Burial Ground Act.—No. 5 constitutes as a private burial-ground the site where the body of the late Right Hon. Mr. Massey was buried, in recognition of the public services rendered by him during his term of office as Prime Minister (1912–25) and more particularly during the strenuous years of the Great War.

Restriction on Freehold Titles.—By the Housing Act, 1919,[2] restrictions against alienation were imposed on the freehold title of dwellings acquired by workers under the provisions of that Act. It has been found that such restrictions are a source of embarrassment, especially in cases where the owner wishes to use his title as security for a loan, and also in cases where by force of circumstances he finds that he is obliged to sell. By the Housing Amendment Act (No.7) the restrictions imposed by the Act of 1919 have been removed.

Rent Restriction.—The Rent Restriction Continuance Act (No. 9) further extends the duration of the "war" legislation for the protection of tenants in the possession of rented houses. There have already been several extensions and the date now fixed for the expiry of the legislation is August 31, 1926.[3]

Nurses and Midwives.—No. 10 is designed to unify the procedure for the registration of nurses and of midwives, which will now be conducted by one Board (on which both nurses and midwives will be represented by a member of their own profession). In addition to the work of registration, the Board is also charged with the duty of making provision for the training and examination of persons desirous of entering these professions. The administration of the Act is in the hands of the Health Department.

With respect to midwives, an important alteration of the law has been effected. The repealed Act (the Midwives Act, 1908) referred only to "midwives" without definition of the term.

In the process of administration this term "midwife" became limited in its application to women whose business was to attend women in child-birth without the assistance or supervision of a registered medical practitioner; women who attended to the needs of a patient who was under the care of a medical practitioner were known (to the administering Department) as "maternity nurses," and to these women the Midwives Act had no application. This distinction between "midwives" and "maternity nurses" is recognized in the new Act and provision is made for the registration of both classes.

Stamp Duties.—No. 11 makes further amendments of the Stamp

[1] For the original authority, see *Journal of Comparative Legislation*, New Series, no. xxxv, p. 134.

[2] See *Journal of Comparative Legislation*, Third Series, vol. iii, pt. ii, p. 95.

[3] A further extension has since been made (session 1926) to August 31, 1927.

Duties Acts, 1923 (a reconstruction and amendment of the law as to stamp duties).

The most important amendment effected by the new Act is the practical abolition of "mortgage duty," which was introduced in war-time as a means of increasing the public revenues. Mortgage duty has always been an unpopular form of taxation, it being contended *inter alia* that it taxed the subject by reference to his debts and not by reference to his possessions; for though the law provided that mortgage duty was primarily payable by the mortgagee, nevertheless in fact it was always borne by the mortgagor. A curious and unintentional exemption had its origin in this fact that the mortgagee was primarily liable for the payment of mortgage duty. There is a general exemption from duty in all cases where the Crown is the person primarily liable. It followed therefore that mortgages to secure loans granted by the Public Trustee, the Superintendent of the State Advances Office and other Government Departments were exempted from duty, an additional (but unintentional) advantage to borrowers from the State. While in effect abolishing mortgage duty as a source of revenue, a nominal duty (*2s. 6d.*) has been retained. By imposing on the parties an obligation to present an instrument of mortgage for stamping, an opportunity for the perusal of the instrument is given to the Department, it having been found by experience that the perusal of a mortgage may often reveal the existence of other dutiable instruments.

Taxation. — S. 11 of the Land and Income Tax Amendment Act, 1924, made provision for the registration against the title to land of charges in respect of unpaid land tax. When an investigation of the claims was made, it was found that many of them had been outstanding for a very long period and it was represented that payment of these outstanding claims by the present occupiers would be a cause of undue hardship.

S. 2 of the present amending Act (No.12) enables the Commissioner to consider all such representations and, in his discretion, to release the present occupier in whole or in part from payment of such claims.

S. 3 of the amending Act enables the Commissioner at any time to make a special assessment of a tax-payer in respect of land tax that may thereafter become payable by him. The section is an adaptation of similar provisions with respect to special assessments of income-tax contained in s. 108 of the principal Act (1923, No. 21). The section is intended for application only in exceptional cases where a change of ownership is contemplated, to take effect before the date ordinarily fixed for the payment of the tax.

The Land and Income-tax (Annual) Act (No. 13) fixes the rates of land tax and income-tax payable for the financial year ending on March 31, 1926. In accordance with the declared policy of the Government the rates are lower than for the preceding year.

Superannuation of Hospital Employees.—Ss. 3 to 11 of the National Provident Fund Amendment Act (No. 14) make provision for the payment of retiring allowances to employees of hospital boards. The Act imposes on hospital boards an obligation as from April 1, 1926, to contribute to the National Provident Fund on behalf of their permanent employees, in the manner provided by the National Provident Fund Amendment Act, 1914.[1] The effect of the Act is to *compel* hospital boards to do

[1] See *Journal of Comparative Legislation*, New Series, no. xxxv, p. 127.

for their permanent employees what they have had *authority* to do since the commencement of the Act of 1914. The reason for substituting these compulsory provisions for the former discretionary powers is to secure uniformity of practice among all hospital boards, and so ensure that superannuation rights will not be sacrificed on transfer from the employment of one board to another. The remaining sections of the Act (ss. 12–25) are administrative amendments without general interest.

Land Settlement.—No. 15 is a consolidation in a reconstructed form and with substantial amendments of the Land for Settlements Act, 1908, and its amendments. The Act is a necessary complement to the Consolidated Land Act passed in 1924. The 1924 and 1925 Acts together contain the important freeholding legislation passed by the Reform Government, pursuant to its expressed policy, when it came into power in 1912. The Land Act of 1924 relates primarily to ordinary Crown lands (that is, lands that have never been alienated from the Crown). The Land for Settlements Act, on the other hand, relates primarily to lands that have been acquired by the Crown by way of purchase from private owners for the purpose of encouraging closer settlement. For any detailed information concerning the system of the tenure of ordinary Crown lands or of "settlement" lands, application should be made to the Head Office of the Lands Department in Wellington, New Zealand.

Public Debt. — The Repayment of the Public Debt Act (No. 16) repeals the Public Debt Extinction Act, 1910, and makes new and better provision for the gradual repayment of the Public Debt. The Act establishes a Capital Fund to be called the "Public Debt Redemption Fund," and provision is made for the investment of the moneys of this Capital Fund in loans to "settlers," "workers" and "local Authorities" pursuant to the State Advances Act, 1913. There is also established a Public Debt Repayment Account, into which is paid annually from the Consolidated Fund:

(*a*) A sum equal to one-half of one per centum of the total amount of the public debt outstanding at the end of the previous financial year, together with an additional amount of one-half of one per centum of the total amount of the public debt theretofore repaid or redeemed under the provisions of the Act now under review.

(*b*) A sum equal to three and a half per centum of the total amount of the public debt repaid or redeemed under the provisions of the Act as at the end of the previous financial year, together with an amount computed at the rate of three and a half per centum per annum of the amount so repaid or redeemed during the current financial year for the period elapsing between the date of repayment or redemption and the end of the current financial year.

The moneys in the Repayment Account are to be applied from time to time towards repayment of the Public Debt. The moneys derived from the investment of the Capital Fund are made payable to the Consolidated Fund in reduction of the annual charges hereinbefore referred to. For the purposes of the Act a Public Debt Commission is constituted, consisting of:

(*a*) The Minister of Finance;
(*b*) The Speaker of the House of Representatives;
(*c*) The Paymaster-General;
(*d*) The Solicitor-General;
(*e*) The Public Trustee;
(*f*) One other person to be appointed in that behalf by the Governor-General, and to hold office during pleasure.

Pensions.—No. 17 increases the benefits payable to persons in receipt of old-age pensions, widows' pensions and other civil pensions. The annual value of the old-age pension and the pension in respect of blindness is increased from £39 to £45. The benefit of the provisions in respect of pensions for blindness has been extended so as to apply to persons who have been resident in New Zealand for not less than ten years before the passing of the 1924 Act, or who, at the date of the application, have been resident in New Zealand for not less than twenty-five years. An important change is made by s. 11 in the procedure for the renewal of pensions under the principal Act. As from April 1, 1926, all applications for renewal are to be investigated and determined by the Commissioner of Pensions instead of by a stipendiary magistrate as formerly.

Government Railways.—An important change is made by No. 18 in the administration of the Government Railways. Hitherto the General Manager has been the principal administrative officer. The new Act provides legal recognition for the administration of the railways by a Government Railways Board consisting of a chairman and two other officers. Following the constitution of the Board, a further change of policy has been adopted in respect of the finances of the railway. Provision is made for the establishment, outside the Consolidated Fund, of a Working Railways Account, into which all railway revenue is made payable and out of which all maintenance expenditure in connexion with the railways is to be paid.

Consequent on the increase of motor facilities and the resultant competition between the Government railways and the proprietors of motor services, authority has been given for the Department to use, in conjunction with its railway services, a motor transport service for the carriage of both passengers and goods. In respect of any such service the Department has the same powers and obligations as it has in respect of its railway service proper.

Judicial.—The District Courts Act (No. 19) abolishes the statutory authority for the establishment of District Courts. The District Courts were intermediate between the Supreme Court and the Magistrate's Court and have, in fact, been abolished for upwards of twenty years. The present Act simply repeals the authorities and makes the necessary consequential amendments to the law by the removal from the Statute Book of all references to District Courts. The necessity for the existence of a District Court disappeared with the extension of the jurisdiction of Magistrates' Courts.

Registration of Land Titles.—The Land Transfer Amendment Act (No. 20) makes various machinery amendments of the Land Transfer Act, 1915. In addition, it makes provision for the issue of certificates of title in respect of leasehold interests.

Chattel Securities.—The Chattels Transfer Amendment Act (No. 21) makes a slight amendment of the Act of 1924. Its importance is in the fact that authority is here given for the first time for an official reprint of an Act with its amendments incorporated. The reprinted Act, certified as correct by the Attorney-General, is made acceptable as evidence in all Courts of Justice.

Child Welfare.—The main purpose of No. 22 is to place on a legal basis what has for many years been the practice of the Government in relation to the care of those children who are particularly under the supervision of the State. By the Industrial Schools Act, 1908 (which

was merely a measure consolidating the Act of 1882 and its amendments), provision was made for the establishment of what were known as "industrial schools" where children committed to the care of the State were maintained (regardless of whether their committal was due to indigence or to depravity).

For many years it has been the policy of the Government to use these industrial institutions only for those children who were particularly in need of supervision or special treatment. Normal children have, so far as practicable, been placed in the custody of private individuals, to be brought up in normal home-life conditions. The policy of the Government in this matter was without legal recognition, and the Act now under review gives that legal recognition to the established practice. In addition, it makes provision for the establishment of Children's Courts, the intention being that so far as practicable young children shall not become associated with ordinary criminal procedure and its surroundings. Where a child is accused of having committed an offence, he may be dealt with by the Children's Court in a more or less unofficial and informal manner, and a child will not suffer the stigma of criminality because of a youthful peccadillo.

Authority is given to a Children's Court to dispense in any case with the formal hearing of a charge made against any child, and in any such case the Court may, in its discretion, after taking into consideration the parentage of the child, its environment, history, education, mentality, disposition and any other relevant matters, make an Order committing the child to the care of the Superintendent of the Child Welfare Branch of the Education Department.

In order that the Child Welfare Officers of the Education Department should be in a position to take the necessary steps for the protection of children who may need their assistance, an obligation is imposed on the Registrar of Births to notify the Child Welfare Department of particulars concerning the birth of every illegitimate child. On receipt of any such notice a Child Welfare Officer is required to make the necessary inquiries as to the condition of the child and its mother, and if satisfied that the case is one in which the welfare of the child should be cared for by the Department, the Child Welfare Officer is required to take the necessary steps to secure that end. An obligation of secrecy is imposed on every Child Welfare Officer receiving any notification under the Act with respect to any child, and an officer who fails to observe the obligation of secrecy may be dismissed from the service without notice.

Registration of Electrical Wiremen.—No. 23 makes provision for the registration of all persons engaged in the business of installing electric wires on premises. After April 1, 1926, it will not be competent for any person other than a registered electric wireman (or a holder of a provisional licence) to be engaged in the work of wiring any premises for electric lighting or for heating or power purposes.

A Board consisting of an officer of the Public Works Department, an engineer in the employ of an Electric Power Board or Borough Council, and representatives of insurance companies, electric traders and electrical wiremen, is established for the purpose of administering the Act.

Labour.—The Industrial Conciliation and Arbitration Act (No. 24) is merely a compilation of the Act of 1908 and the several amendments that have been made since that date.

Life Insurance. — No. 25 makes certain declaratory provisions with respect to the protection of policy-holders in the event of bankruptcy. By the principal Act (the Life Insurance Act, 1908) the term "policy-holder" is defined to mean the holder of the policy for the time being. This definition is not appropriate in the construction of those provisions that relate to the protection of policy-holders in the event of bankruptcy, in cases where the holder in the ordinary sense has assigned his policy by way of security (as, for example, where a policy has been assigned as security for a bank overdraft). In such a case it was held (as the law stood) that the first holder of the policy lost the advantage of a provision obviously intended for his benefit. The amending Act expressly declares that the protection exists for the benefit of the original holder (and, in certain cases, for the benefit of the wife or husband or of a lineal ancestor or descendant of the original holder).

Weights and Measures.—No. 26 repeals the Weights and Measures Act of 1908, and re-enacts its provisions with substantial alterations, with a view to bringing them into greater conformity with the legislation of other parts of the Empire.

Main Highways.—No. 27 makes a number of amendments found by experience to be necessary for the effective administration of the Main Highways Act, 1922.[1] Speaking generally, the purpose of the amending Act is to allow greater elasticity in the administration of the principal Act and of the expenditure of moneys in the Main Highways Account.

Rating.—No. 30 is a compilation without amendment of the 1908 Act, and its several amendments. With this Act should be read the Valuation of Land Act (1925, No. 31), which is also a compilation without substantial amendment.

Death Duties.—S. 2 of No. 32 exempts from estate duty the value of any policy of life insurance (up to £1,000) comprised in the estate of a deceased person. The purpose of the amendment is to make the value of such insurance policies readily available and so to facilitate the payment of death duties and other charges incident to the winding-up of an estate.

S. 5 of the Act extends the right of appeal from assessments made by the Commissioner for purposes of the principal Act. There has always been an expressed right of appeal on points of law, but the right of appeal on points of fact, though implied, has not hitherto been expressly conferred. The amendment now made brings the law as to appeals into line with the provisions already existent in relation to the assessment of stamp duties, and of land tax and income-tax.

Kauri Gum.—No. 34 makes provision for the establishment of a Kauri-gum Control Board on lines similar to those already established by Acts relating to the control of the export of meat, dairy produce, and fruit.[2]

Local Elections. — No. 35 is a consolidation without substantial amendment of the law enacting rules of procedure for the conduct of elections and polls by local governing bodies.

Apprentices.—No. 36 extends the operation of the Apprentices Act, 1923.[3] As amended the Act of 1923 applies to all employers for the

[1] See *Journal of Comparative Legislation*, Third Series, vol. vi, pt. ii, p. 100.
[2] See *Journal of Comparative Legislation*, Third Series, vol. v, pt. ii, p. 122, and vol. vii, pt. ii, p. 114.
[3] *Journal of Comparative Legislation*, Third Series, vol. vii, pt. ii, p. 115.

time being bound by an award or by an industrial agreement under the Industrial Conciliation and Arbitration Act and to all apprentices employed by such employers.

State Forests.—No. 37 amends in various particulars the provisions of the Forests Act, 1921–23.[1] Most of the amendments are a means of removing difficulties that have been experienced in the administration of the principal Act; for example, s. 3 confers specific authority upon the Governor-General to withdraw a Proclamation constituting a State forest, and in lieu thereof to issue a new Proclamation with an amended description of boundaries. S. 4 permits of an exchange being made of land comprised in a State forest for private lands that may be more suitable for State forest purposes. Provision is also made for securing the protection against fire of trees growing on privately owned lands by utilizing the machinery of the principal Act with respect to the constitution of fire districts.

The Electric Power Boards Act.—No. 28 is a consolidation without substantial amendment of the Electric Power Boards Act, 1918, and its several amendments.

Coal-mines.—No. 39 is a consolidating measure; provisions of the Imperial Acts relating to working conditions in coal-mines, in so far as they are deemed applicable to New Zealand conditions, have been incorporated.

Deteriorated Lands.—No. 42 makes special provision for the relief of the occupiers of certain lands (more particularly lands held under lease from the Crown) in respect of hardship arising from the deterioration of such lands or from their natural lack of productivity. The Act has no general application, but may be applied by the Governor-General to any specified lands by Proclamation. Provision is made for the appointment of special revaluation committees to consider applications for relief and to make recommendations in respect thereof. On receipt of a favourable recommendation from a revaluation committee, relief may be granted to a tenant by way of a reduced valuation (with a consequent reduction in the rental) or by way of a reduction in the purchase-money agreed to be paid in respect of lands in the course of being purchased from the Crown. Provision is made for the grant of financial assistance by way of loan to the occupiers of affected lands, to enable them to purchase fencing materials, lime or manure, and to defray certain capital expenditure.

Harbours.—No. 43 amends the Harbours Act, 1923. Many of the new provisions relate to financial matters, the general purpose being to bring the financial provisions into general conformity with the financial provisions of the law relating to other local governing bodies.

Finance.—The Finance Act (No. 51) and the Appropriation Act (No. 52) together contain a miscellany of enactments affecting the finances of the Government and of local authorities. The Parliamentary practice with respect to these measures (which are annually recurring) is to insert in them all those provisions relating to financial matters which cannot, by reason of their nature or for lack of time, be dealt with in separate measures. The Finance Bill invariably contains the special loan authorities granted to the Minister of Finance for the year; and in addition a number of special provisions validating or authorizing payments or making adjustments as between accounts within the Public

[1] See *Journal of Comparative Legislation*, Third Series, vol. v, pt. ii, p. 116.

Account. The Appropriation Bill is primarily for the purpose of granting annual supplies, but matters more or less foreign to its true purpose are sometimes dealt with in it, for the sake of convenience, for it affords the last opportunity of the session of curing some defect in the law or of validating some transaction or of conferring a special authority.

V. WESTERN PACIFIC.

1. FIJI.

[*Contributed by* Sir A. K. Young.]

During the year 1925 twenty-three Ordinances were passed. Of these eighteen amended and two repealed existing legislation. Of the remainder, two were appropriation Ordinances and only one a new measure, namely, the Pure Food Ordinance, No. 7. The two Ordinances repealed were the Necessary Commodities Control (Repeal) Ordinance, No. 4, and the Business Profits Tax (Repeal) Ordinance, No. 18. During the year a Revised Edition of the Ordinances of the Colony of Fiji (1875 to 1924) was brought into force by Proclamation No. 6 of 1925 on the 20th day of July, 1925.

2. GILBERT AND ELLICE ISLANDS COLONY.

[*Contributed by* Sir A. K. Young.]

Natives.—No. 1 defines "Native" to mean any aboriginal native of any island in the Pacific Ocean, and including the descendants of any such native, whether wholly or partly of native descent.

No. 2 is a minor amending Ordinance.

3. BRITISH SOLOMON ISLANDS PROTECTORATE.

[*Contributed by* Sir A. K. Young.]

Two minor amending King's Regulations of no public interest were passed, and one prescribing penalties for prospecting or mining for minerals in the Protectorate without being duly licensed or authorized.

VI. SOUTH AFRICA.

1. UNION OF SOUTH AFRICA.

[*Contributed by* E. L. Matthews, Esq., C.M.G., K.C.]

Acts passed—46.

The 1925 session of the Union Parliament began a month later than usual and concluded on July 27. Its main characteristic was the number of important financial and taxation measures which occupied its attention. These included an entirely new Customs Tariff; a consolidating Income-tax Act; a consolidation of the laws relating to direct taxation of natives; a further readjustment of the financial relations between the Union and the provinces both as regards subsidies from Union funds to Pro-

vincial funds and the assignment of trading and occupational licence moneys, when collected, to the Province. To carry this out effectually it was necessary to consolidate and unify the pre-Union Colonial laws as to the classification and rates of such licence moneys. Minor financial measures included a readjustment of the schedule of Death Duties, consolidated in 1922, a ratification of a new Customs Agreement between the Union and the two Rhodesias and the usual " omnibus " Bill to straighten out irregularities in money clauses of many Acts, to meet the demands of the Controller and Auditor-General. With nine Appropriation Acts in addition, eighteen of the forty-six Acts passed must be credited to the Minister of Finance.

The consolidating measures included the financial provisions above referred to, and in addition a measure once more clarifying and codifying the law as to relief for the sufferers from miners' phthisis, but once more also placing heavy additional burdens on the gold-mining companies.

Constitutional.—The constitutional measures can be disposed of in a few words. The Official Languages of the Union Act (No. 8) removes doubts which had arisen as to whether the provisions of s. 137 of the South Africa Act, in providing that both the English and the Dutch languages shall be the official languages, the word " Dutch " covered the form of that language now almost universally used by the Dutch-speaking people and known as " Afrikaans." The new Act declares that " Dutch " in s. 137 of the Act of Union does include " Afrikaans," and as the new Act is declared to have been in operation as from May 31, 1910, " Dutch " must always have included " Afrikaans."

The next constitutional measure was the South Africa Act 1909 Amendment Act (No. 9). This inserts in the Constitution an express acknowledgment by the people of the Union of the sovereignty and guidance of Almighty God. This acknowledgment had unwittingly been omitted from the preamble to the Act of Union at the time of the National Convention in 1909. It was obviously impossible to amend the preamble at the present date. The object desired has been attained in the new Act by the repeal of the first section of the principal Act (which merely declared the short title) by substituting the acknowledgment in the terms above stated and by adding at the end of the principal Act a new section declaring the short title thereof.

Then, later in the session, the South Africa Act was further amended by Act No. 34. The principal Act has in s. 14 limited the number of King's Ministers of State to ten. The new Act, by altering that number to eleven, enables a new Minister to be appointed. A Minister of State is one who has control of a department of State and does not include a Minister without portfolio, who is merely a member of the Executive Council under summons. Since the Act was passed an additional Minister of State has been appointed under it.

The last constitutional measure was No. 42, enabling the Government as mandatory for South-west Africa to confer representative government on that territory. This measure is entitled the South-west Africa Constitution Act. Inasmuch, however, as a full description of the Constitution to be so granted appeared in another issue of this Journal,[1] further reference to it in this Review of Legislation is unnecessary.

[1] See *Journal of Comparative Legislation*, Third Series, vol. viii, pt. iv, p. 161.

Railways and Harbours.—The first of the consolidating measures was the Railways and Harbours Service Act (No. 23). It consolidates and amends the laws relating to the organization of, and discipline in, and conditions of employment in the department of Railways and Harbours, the original Act forming Chapters I and II of Act 28 of 1912, which had been frequently amended. This Act deals entirely with conditions of service and does not deal with superannuation matters which formed the subject of Chapter III of Act 28 of 1912 and amending provisions; and which themselves are now consolidated and amended by Act 24 of 1925.

The chief features of the new Service Act are: (*a*) Special exemptions preserving, at option, existing rights of pre-Union servants in regard to the disciplinary procedure contained in the Act, that is to say, rights existing and accruing at the date of Union and preserved to them by s. 144 of the South Africa Act. (*b*) The continued vesting of the power of appointment and discharge of railway and harbour servants in the Governor-General in Council, with a right on his part to delegate all or any part of those powers, but preventing the pensionable salary or wages of any such servant when in permanent employment from being reduced without such servant's consent except for disciplinary reasons or inefficiency or in pursuance of some Statute authorizing a general reduction of salary or wages throughout the service. (*c*) A declaration of qualifications for appointment to the service, other than in casual employment. These qualifications are British citizenship; good character; freedom from mental or physical defects or infirmity; and three years' residence in South Africa. A distinction is drawn between permanent and temporary employment, the permanent employees being those employed before October 1, 1912, and those who since that date have received certificates of permanent employment. With certain exceptions in the case of daily paid employees or persons under eighteen, servants who have had two years' continuous service are eligible for certificates of permanent employment. (*d*) Promotion is declared to depend on efficiency and, where efficiency is equal as between two servants, to depend on relative seniority. A final appeal to the Railway Board is given to persons aggrieved at a decision in relation to promotion. (*e*) Persons appointed within five years after September 1, 1925, or between September 30, 1912, and that date must, in order to fill a clerical post, pass an examination in both official languages of the Union. Failure to do this involves an *ipso facto* termination of progressive increase of salary. After August 31, 1930, no person may be admitted to a clerical post who has not passed a prescribed examination in both official languages. (*f*) Dismissal or reduction in rank and emoluments for inefficiency and retrenchment in consequence of reduction or reorganization in staffs. The retrenchment provisions, which are similar to those of the 1912 Act, increase the scale of gratuity on retirement in the case of certain employees. No person may be retrenched while on leave without his consent. (*g*) Superannuation at the age of sixty is compulsory, and in the case of telegraphists, engine drivers, drivers' assistants and firemen the compulsory age of superannuation is fifty-five. (*h*) The disciplinary provisions of the 1912 Act have been completely revised, the offences against discipline being classed as those of minor and serious misconduct. Minor misconduct may be dealt with summarily, provided the servant is informed of the act or omission charged, and

afforded an opportunity of explanation. In the case of serious misconduct, if the matter is also the subject of a criminal charge, the servant cannot be dealt with departmentally until the Court has disposed of the criminal charge, unless he intimates his desire to be so dealt with. If the Court acquits him of the criminal charge, the departmental charge lapses. (*i*) In place of the Central Appeal Board hitherto existing to which appeals against disciplinary punishments might have been made, district appeal boards are, under the new Act, to be constituted. To these district boards servants in permanent employment may appeal direct when punishment for misconduct is imposed on them or is placed on record against their names. The district appeal boards contain at least two servants, one nominated by the Administration and one by the appellant. (*j*) Provision is made in the Act for conciliation boards to which matters affecting the staff may be referred. Such boards are to consist of an equal number of persons nominated by the Administration and by the staff respectively. (*k*) In addition, in disputes not suitable for a conciliation board but where a considerable number of servants are affected and serious disorganization is likely to occur, the Government may appoint a commission of impartial persons to investigate and make recommendations. A judge is, if possible, to be selected to preside over such a commission. Such a commission may also be appointed on the petition of not less than one-fifth of the total number of each grade of servants affected by the dispute.

The next consolidating measure was the Railways and Harbours Superannuation Fund Act (No. 24), which, as indicated above, re-enacted with amendments the provisions of Chapter III of Act 28 of 1912, together with other pension provisions applicable to railway and harbour servants. The main object of this new Act is to establish a new superannuation fund for railway and harbour servants; to set up such machinery as is necessary to administer that fund; to close off, as regards future entrants, the old fund of the 1912 Act. The principal provision in regard to the administration of the new fund is one providing for a joint committee of management. Of this committee one-half is nominated by the Administration and the other half is elected by ballot by the members from amongst themselves. The Act goes on to provide for rates of contribution to the new fund by the members thereof, ranging from 3½ to 6 per cent. of emoluments. The Administration contributes every year an amount equal to the total contributions of members and must also contribute from time to time such further amounts as are required to secure the solvency of the fund. Pensions from the fund are calculated at one-sixtieth for each year of the period of membership, based on the annual average of the member's pensionable emoluments for the seven years preceding retirement or an annual average of pensionable emoluments for the whole period of membership, whichever is the greater. Pensions may to a limited extent be commuted. The cession or pledging or hypothecation of pensions is prohibited, nor can a pension or a contribution thereto be attached by or executed under Order of Court. If a pensioner becomes insolvent, the pension forthwith terminates unless, in the discretion of the Administration, it is paid over in whole or part for the benefit of the insolvent, his wife, minor children or certain dependents. It is unnecessary to say that membership of the fund is compulsory and contributions to it are deducted from emoluments of office. Pension benefits go, in case of death, to dependents and relatives,

whether the death is before or after retirement, and such benefits do not form part of the deceased's estate.

Wages.—In the category of consolidation measures may be placed the Wage Act (No. 27), because it repeals the Regulation of Wages, Apprenticeship and Improvers Act, 1918, though the new Act goes much further and applies to all industries, while the Act of 1918 had rather a restricted operation.

The classes of persons in respect of whom the new Act is to operate are determinable by reference to the definitions of "trade," "wage," "employee," "employer" and "employment" contained in s. 18 and to the exemption provisions of s. 1 and subsection (2) of s. 18. "Trade" includes practically every activity engaged in or carried on by an employee or employer and includes a group of trades. "Wage" includes any form of monetary remuneration except money received for piece work or overtime. "Employee" includes all persons receiving, in accordance with the terms of employment, any wage or other remuneration in money or in kind or both in money and in kind, as well as persons working in association with others for a wage or a share of the value of or profit derived from the output of their labours. "Employer" means the person who employs an "employee" and, subject to the exemption provisions to which reference will now be made, includes the Union Government, a provincial administration and the Railways and Harbours Administration. But the effect of the definition of employment is to exclude from the operation of the Act work of a voluntary character not done for profit as well as certain work done in educational and Government institutions. Then, there are further exempted expressly by s. 1 from the operation of the Act, persons employed in agricultural, horticultural or pastoral pursuits or in forestry, domestic servants in private households, persons whose wages are governed by the Public Service Acts or the Railways and Harbours Acts and the regulations made thereunder. Further, a determination of wages under the Act is inapplicable to apprentices governed by the Apprenticeship Act, 1922, and also to employers or employees who have come to an agreement or are subject to an award made binding under the Industrial Conciliation Act, 1924, if such an agreement or award provides for the remuneration of employees at rates not lower than those in force under this new Act in the locality where the employees live.

The Act provides for the establishment of *one* Wage Board for the whole Union. This Board is to consist of three members. A leading King's Counsel has been appointed the first chairman and his first two colleagues have been selected from the magisterial bench. With a view to relieving the Board from congestion of work, provision is made for the conduct of investigation in reference to any particular trade or branch of trade by divisions of the Board. Such a division will consist of three persons, one of whom may be a member of the Board. For the purpose of any investigation by the Board or a division thereof in regard to any particular trade the Minister of Labour may appoint not more than two additional members to hold office until the completion of that investigation or for a period specified by the Minister. In certain circumstances one such additional member must be representative of employers, and one must be representative of employees, in the trade concerned.

It is declared to be the function and duty of the Wage Board to

investigate and report to the Minister upon any matter relating to wages or to rates of payment for piece work or overtime, or relating to hours or conditions of labour, if such matter is referred to it by the trade interest concerned; and to investigate and report in respect of wages and other conditions governing employment in the particular trade. In certain circumstances, however (including a case where application is made in respect of such employees of the Government, or of a provincial administration or the Railways and Harbours Administration as are not exempted from the Act by s. 1), the investigation is not to proceed unless the Board receives Government direction to that effect. Certain specific matters which are to receive the attention of the Board when pursuing an investigation are set out in subsection (2) of s. 3 of the Act.

Provision is made for the procedure of the Board and for the preservation of secrecy; and power is given to it to summon witnesses to give evidence or to produce documents, books and records and to place witnesses on oath. The reports of the Board are to be laid before Parliament.

When the Minister of Labour receives the Board's report upon any matter he is to consider it and thereafter may determine, in accordance with the report or the recommendations of the majority of the Board, the *minimum wage* for the class of employees concerned and the variation thereof to meet special conditions and qualifications, the conditions applicable to the trade regarding juveniles and learners, and generally as to matters affecting the remuneration or the conditions of employment of the employees concerned. But before this is done, public notice must be given for at least one month of the intention to make the determination, and, in such notice, objections must be invited. Upon consideration of such objections the Minister, if he deems them to be of a serious nature, may resubmit the matter for the consideration of the Board. Any determination made is to be effective for such period, not exceeding two years, as the Board may recommend and thereafter until a fresh determination has been made. Provision is made for the issue, by the Minister, of licences granting, in certain special circumstances, exemption from the operation of any determination.

Employers are prohibited, under penalty, from paying a less wage than that set forth in any determination by the Minister under the Act or from failing in any other manner to conform with the conditions of employment set out thereunder.

Mainly for the purpose of enforcing compliance with the requirements of the Act in this respect, provision is made for the appointment of inspectors and other officers, and for the keeping by employers of records and time sheets. The victimization of employees on account of anything done by them under the Act is also provided against and penalized.

Miners' Phthisis. — The Miners' Phthisis Acts Consolidation Act (No. 35) repeals the whole of the Miners' Phthisis Act (No. 40 of 1919), together with its amendments contained in Act 35 of 1924, and provides a complete scheme for relief to sufferers from miners' phthisis. Legislation to provide such relief was first enacted in 1911 as a temporary measure. The first permanent Act was in 1912. That was amended in 1914. The consolidating and amending measure, No. 40 of 1916, considerably increased the benefits to sufferers from the disease, which in turn led to the Act of 1919.

The new consolidating measure follows, in regard to the system of

administration and *method* of relief, the Act of 1919. Its new features are to be found in the classes of benefits to sufferers. Following the provisions of the 1919 Act monthly pensions are provided for *prior* law beneficiaries, that is to say, for miners who received benefits prior to August 1, 1919, and to *previous* law beneficiaries, *i.e.* to miners who received benefits after that date under the Act of that year. But while the 1919 Act provided for a monthly allowance to the dependents of the miner only if the miner had died from silicosis of the lungs or from a cause to which such silicosis contributed, the new Act provides for the automatic award of an allowance to such dependents whatever may have been the cause of the miner's (*i.e.* pensioner's) death.

The Act of 1919 debarred a miner whose disease had become advanced from receiving further benefits if he did not apply for them or cease mining work within three months; and his dependents were likewise debarred. The new Act, while maintaining this disability as regards the miner himself, provides that if his disease is in the secondary or complicated stage or if he dies from silicosis or if silicosis contributes to his death, his dependents will be entitled to a monthly pension. The Act of 1919 did not allow the miner to leave on loan with the Miners' Phthisis Board any lump sum which he had received as compensation for his disease. The new Act permits that to be done and provides for payment of compound interest on any such sum so left, *i.e.* not drawn. The Board will act as his bankers and he will be able to draw the whole or any part of the money at any time, and in the event of his death the balance will be paid to his dependents or for the benefit of his estate. Under the 1919 Act the dependents oversea of a prior law beneficiary were debarred from receiving benefits after the beneficiary's death if he had received in allowances less than £750 before he died. The new Act enables such oversea dependents to receive the balance up to £750, after the beneficiary's death, notwithstanding that he had received less than £750.

The 1919 Act made no provision for prior law beneficiaries who had received sums varying from £96 to £300 in respect of disease in the ante-primary or primary stages or of tuberculosis only, where the disease had shown no progress. The number of such cases was approximately 2,420. The new Act makes provision for these cases by levelling up the awards in respect of disease in the primary stage or tuberculosis only to £532, and awards in respect of disease in the ante-primary stage to £355. It is estimated that this provision will cost the industry in the end approximately £500,000.

The Act of 1919 made no provision for prior law beneficiaries who had only received £400 or £275 or less, were oversea and were suffering from the disease in the secondary stage or from the disease complicated with tuberculosis. The Acts of 1916, 1917 and 1918 had provided £750 as the compensation for miners suffering from silicosis in the secondary stage or when complicated by tuberculosis. Some of these sufferers had not been debarred from receiving their £750 by going to live oversea, but others could not be granted the full amount of £750 because they were not resident in South Africa. This differentiation caused considerable discontent. The new Act levels up all awards from £375 to £750 and restores the position of all such sufferers without regard to place of residence. There were approximately 800 of such cases, and it is estimated that the cost to the industry will amount to about £300,000.

The Act of 1919 gave to the widows of prior law beneficiaries the choice between a monthly pension for life and a monthly instalment out of the unpaid balance of the lump-sum award under the prior law. A certain number of widows preferred the instalment to the pension. The result was that the lump sums became exhausted and the widows were unable to obtain further relief. The new Act enables a monthly pension to be paid under certain conditions to such widows. The Act of 1919 made inadequate provision for safeguarding the interests of miners who were beneficiaries but who had proceeded oversea on active service or on work of national importance during the War and who had been prevented from returning to South Africa within a prescribed period. The new Act gives the Board a discretion to extend any prescribed period and to reconsider the claims of some who have already returned to South Africa, but not of those who are still oversea.

The Act of 1919 made no provision for widows or other dependents on remarriage. The monthly pensions of the widows ceased on remarriage, while the allowances to children under sixteen were continued until they attained that age. The new Act provides that a widow or other dependent (except a child under sixteen) who is in receipt of a monthly pension shall be entitled on remarriage to a lump-sum payment in one sum equal to twenty-four months' pension, while the allowances to any child under sixteen will be continued until it reaches the age of eighteen.

The Act of 1919 made no provision for a miner who, having contracted the disease, had worked only part of his time underground and had spent the remainder of his time at surface work on a scheduled mine. The minimum time to be worked underground to qualify for benefits had been 100 hours a month. The new Act makes provision for compensation in this class of case.

Customs and Excise.—The Customs Tariff and Excise Duties Amendment Act (No. 36) creates (*inter alia*) a completely new customs tariff and repeals the one which, with many amendments, had been in operation since 1914.

The First Schedule setting out this new tariff provides, in respect of a large number of commodities therein described, a minimum duty and a maximum duty. In respect of certain articles provision is made in addition for a suspended duty. A large number of other articles are admitted duty-free. In Class XV of this Schedule are placed under a considerable number of headings, materials for industrial purposes. These are to be admitted free of duty on importation, under such regulations and conditions as the Minister of Finance may prescribe whenever it is established that they are intended for use only in the particular manufacturing industry mentioned.

Generally speaking, the *maximum* duty prescribed under the tariff is the duty to be collected and paid upon the importation of any article for which a maximum and a minimum duty are provided. Duty at rates not lower than the minimum duty so provided is applicable in respect of goods from any part of the British Empire when an agreement for reciprocal treatment has been concluded between the Union and that part of the Empire. With regard to goods coming from foreign countries, if agreements between them and the Union for equivalent reciprocal treatment have been concluded, there may be extended to such countries " most-favoured-nation " treatment or rates of duty not

lower than the prescribed minimum rates. This differential treatment, however, is not to be accorded to any foreign State in respect of goods specified in Part I of the Second Schedule to the Act. In respect of goods admitted from Canada, Australia and New Zealand, until the conclusion of agreements with those Dominions under the Act, the customs duties charged on goods specified in Parts II, III and IV respectively of the Second Schedule are to be subject to the rebates indicated therein.

An agreement for reciprocal differential treatment concluded by the Union with another British Dominion, Colony or Possession or with a foreign State is to have no force and effect until approved by resolution of both Houses of Parliament, and the putting into force of any such agreement is to have the effect of extending like preferential treatment to similar goods grown, produced or manufactured in and imported from the United Kingdom.

Another provision of the Act creates machinery whereby the maximum duty charged on a commodity may be charged to a minimum duty where the industry protected by the higher duty is charging unduly high prices for its product or is acting in a manner which tends to restrain trade or to the establishment of a monopoly injurious to the public interests or where the industry is maintaining unsatisfactory labour conditions, if, in any such case, the cause for complaint is not removed after a prescribed period of notice. The Governor-General is empowered to enter into agreements with the Government of any country contiguous to the Union or to the mandated territory of South-west Africa, providing for the reciprocal grant of free admittance of goods, and providing also that one party to the agreement shall collect on behalf of the other party duties imposed in respect of goods which, having been imported into its territory, are removed into the territory of the other party.

The method of assessing value for purposes of duty are set forth in c. I of the Act, and a number of rebates and refunds (including a rebate in respect of goods imported or taken out of bond for the use of His Majesty's Regular Naval, Military or Air Forces or an allowance per member thereof in lieu of such rebate) are provided for in that chapter.

C. II (ss. 15 to 19) of the Act deals with the imposition of *dumping duties*, which are classified as ordinary, exchange, freight, sales and bounty dumping duties. Those terms are defined in s. 15 (2). The circumstances in which any of those dumping duties may be imposed are set out in subsection (1) of that section. Before any such dumping duty is imposed, the Minister of Finance must be satisfied, after considering an investigation and report made by the Board of Trade and Industries, that the circumstances in which the legislature has authorized the imposition actually exist. Where the Minister is of opinion that the levy, in respect of wheat or wheaten flour, of the ordinary dumping duty to which, under s. 15, such a commodity may have been subjected would, by reason of market fluctuations, be undesirable, the Governor-General may proclaim the imposition of a special dumping duty in substitution for the ordinary dumping duties. Certain dumping duties under laws repealed by this Act are continued in force until superseded by Proclamation under s. 15.

Part I (ss. 20 to 33) of c. III imposes in respect of cigarette tobacco manufactured in the Union for sale and manufactured cigarettes made in the Union for sale certain scheduled excise duties, and in respect of

cigarette tobacco manufactured in a country the Government whereof has entered into a customs agreement with the Union Government, a customs duty equivalent to such excise duties. These excise and customs duties are to be in addition to those imposed under existing legislation. The machinery necessary for the due administration of this provision is created, including the licensing of manufacturers of cigarette tobacco, the keeping by them of proper books, the rendering by them of returns and a power given to excise officers to enter and search premises.

Miscellaneous provisions in Part 2 of c. III *inter alia* include (s. 38) a re-enactment of a provision from a 1922 Act that the mandated territory of South-west Africa shall for the purposes of collection of customs and excise duties be regarded as part of the Union. Duties collected in that territory are to be paid into the Consolidated Revenue Fund of the Union, and there is to be paid out of that Fund annually towards the cost of the administration of the territory a sum approximating to the customs and excise duties on goods consumed in the territory, after deduction of a sum equivalent to goods removed from the territory for consumption in the Union. For the purposes of this provision the port and settlement of Walvis Bay (which is in law part of the Cape Province) is to be regarded as part of the mandated territory.

Income-tax.—The Income-tax Act (No. 40) and the Native Taxation and Development Act (No. 41) may be considered together as consolidating *direct* taxation measures. The former provides for the taxation of incomes and consolidates and amends the previous Acts in respect of such taxation ; it creates (like its principal predecessor, No. 41 of 1917) a permanent machinery for the assessment and the collection of income-tax and super-tax, leaving the rates of such taxes to be fixed annually by Parliament. It abolishes the dividend tax imposed under the 1917 Act on certain classes of companies—a tax which was found in practice to be unsatisfactory in its incidence and to give rise to a considerable amount of litigation. The new Act imposes taxation at a combined flat rate on the profits of companies, such rate amounting in the case of gold- and diamond-mining companies to 15 per cent. of the taxable amount, in the case of life insurance companies to 7 per cent. of that amount, and in the case of all other companies (including private companies which had previously been assessed on the individual progressive rate and exempted from dividend tax) to 12½ per cent. of the taxable amount. Then a primary abatement of £300, which is diminished by one pound for each pound by which the taxable income exceeds £300, is introduced in favour of companies. This had been the provision of the previous law as to primary abatement in regard to individuals. Such provision as to abatement is re-enacted in the new Act. The rate of normal income-tax fixed for individuals for the year which ended June 30, 1925, is, for each pound of taxable amount, one shilling plus as many two-thousandths of a penny as there are pounds in that amount, subject to a maximum rate of 2s. in the £.

Under the Act of 1917 farmers were assessed for income-tax on what was known as the " stock basis " ; that is to say, they were obliged to account for the value of their produce and live stock at the beginning and end of the year of assessment. Under the new Act they are given the option of electing whether they will be assessed on the stock basis or on what is known as the " cash basis," when the value of the produce

and live stock at the beginning and end of the year of assessment is not taken into account.

A new provision has also been introduced (s. 18) for the taxation of profits made by persons not resident in the Union if they dispose of goods through agents in the Union. The agent is required to supply to the revenue authorities the necessary information and is treated as "the representative tax-payer." As such, he is responsible for payment of the amount due, but he is given a right of recovery from his principal, as are other representative tax-payers, by retaining out of any of his principal's moneys which may be in his possession, sufficient to indemnify him for what he has paid in taxation on his principal's behalf (s. 50).

Under the Act of 1917 cases arose where individuals suffered "normal losses" which could not be set off against a super-taxable income consisting wholly of dividends ordinarily exempt from normal tax but liable to super-tax. Under the new Act a loss determined for normal tax purposes is allowed to rank as a deduction in the assessment of a super-taxable income. With regard to super-tax the rate fixed in respect of the year which ended June 30, 1925, is, for each pound subject to super-tax, one shilling and as many five-hundredths of one penny as there are pounds in that amount, subject to a maximum rate of 5*s.* in the £. The primary abatement for super-tax purposes is £2,500, that is to say, super-tax becomes payable on anything over that amount of taxable income. But this abatement is to be diminished by one pound for every pound by which the aggregate income subject to super-tax, after allowance for any amounts to be set off under s. 30 exceeds £2,500.

Super-taxable income under the new Act now includes the nominal value of bonus shares and debentures or other securities allotted by the capitalization of profits.

Under s. 22 a company which is subject to normal tax and which pays interest upon debentures or debenture stock is entitled to deduct from each amount of interest payable, the proportionate amount of normal tax paid by such company in respect of the sum-total of such interest paid. Thus, in respect of such interest, income-tax is or can be virtually collected from the company acting as representative of the tax-payer. Debenture interest may not be deducted under s. 13 (*a*) and the rate of normal tax in respect of such interest is 2*s.* in the £ instead of the rate of 1*s.* 6*d.* in the £ imposed under the previous law.

Exemption from liability for income-tax has, by s. 10 (i) (j), been extended to salaries and emoluments payable to all persons holding office in the Union under the Imperial Government or under the Government of other States or of British Dominions, Colonies and Possessions, provided such persons are stationed in the Union solely for that purpose and are not persons ordinarily resident therein.

The special or secondary abatement previously in respect of children and stepchildren under eighteen has been increased from £50 to £60 per child, while the definition of dependent has been enlarged in favour of the tax-payer. So long as he contributes at least £30 towards the maintenance of a dependent during the tax year he is now entitled to the abatement, no matter how many others may have contributed towards the maintenance of the same dependent. For the rest, this consolidating Act reproduces with improved arrangement of clauses and in clearer form the provisions of the previous Act. As a result of judicial decision and administrative experience certain provisions of

those previous Acts have been repealed without re-enactment. In some cases other provisions have been substituted, amplified or redrafted.

Native Taxation.—The Native Taxation and Development Act (No. 41) consolidates and amends the law relating to the taxation of natives and provides out of the taxation so to be levied additional funds for the administration, education and local government by natives in their reserved areas.

Two taxes are to be levied *annually :* (1) A general tax of £1 upon every adult male native who is domiciled in the Union and who has resided therein for a continuous period of twelve months immediately preceding the date when the tax becomes due. (2) A local tax of 10s., to be paid, in addition to the general tax, in respect of every hut or dwelling in a native location, by the native occupier thereof who is not the owner, in the location in which the hut or dwelling is situate, of any allotment of land held under quitrent title. These taxes are due on January 1 in each year, but are payable at times and places to be fixed by regulation. Exemptions from the payment of either or both of these taxes are provided in the case of (*a*) indigent natives ; (*b*) natives whose permanent homes are outside the Union and who produce proof of discharge of liability to pay taxes in the territories where those permanent homes are situate ; (*c*) natives who by reason of school attendance are prevented from earning wages ; (*d*) natives who are taxable under the Income-tax Act. This last exemption only applies in respect of the general tax and not the local tax.

After providing the necessary machinery for the collection of the tax, its recovery and penalties for non-payment, the Act proceeds, in s. 11, to allocate to native councils or local boards, in areas where such bodies exist, the amount of the local tax together with the amount of the quitrent collected from natives in the areas under the jurisdiction of any such body. Then s. 12 provides for the establishment of a special account, styled the Native Development Account, which is to be administered by the Minister of Native Affairs and into which is to be paid one-fifth of the amount of the general tax together with any local tax or native quitrent collected in areas where there is no native council or local board and therefore not payable under s. 11 to such a body. The amounts standing to the credit of the Native Development Account are to be applied, at the discretion of the Minister of Native Affairs in consultation with the Native Affairs Commission, to the maintenance, extension and improvement of educational facilities amongst natives, the development and advancement of the welfare of natives, and the payment to the divisional councils in the Cape Province in areas where no native council exists, of the special hut tax payable to such divisional council under an Act of 1899. Any moneys paid into the Native Development Account for the development and advancement of native welfare are to be expended in the areas in which the moneys have, as taxation, been collected. The Exchequer Account of the Union is to receive from the Native Development Account, in such instalments as the Minister of Finance may determine, the total amount of the advances made to provincial administrations for the improvement of the salaries of native teachers out of the moneys granted by Parliament for that purpose.

A special provision of the Act is s. 15, which provides that when any native tribe or community voluntarily makes application for the levy

of a special rate for the benefit of that tribe or community and the Minister of Native Affairs is satisfied that the majority of the rate-payers of the tribe or community desire that such a levy be made and approves of the purpose for which it is to be made, the Governor-General may cause such a levy to be made. When made, the amount is recoverable as if it were a tax imposed under the Act. The proceeds of a rate so levied are to be paid into a special account in the name of the tribe or community concerned. That account will be administered by the Minister of Native Affairs in accordance with regulation.

Licences.—The last consolidating measure for review is the Licences Consolidation Act (No. 32). Its enactment was due to the decision (to which effect is given in the Provincial Subsidies and Taxation Powers Amendment Act presently to be reviewed) to take away from the Provincial Council the right to legislate in respect of the licensing of trades, professions and occupations. The Act (*i.e.* No. 32) came into operation on January 1, 1926, and as from that date the licence duties specified in the First and Second Schedules to the Act are chargeable in respect of the carrying on of the trades, professions and occupations, and according to the rates of duty, in those Schedules indicated. The pre-Union laws of the late Colonies which provided for some of those licences are repealed, and the Provincial Ordinances which have been enacted by Provincial Councils in regard to some of these licences *ipso facto* cease to be in operation by reason of a provision of the Provincial Subsidies and Taxation Powers Amendment Act to which reference is shortly to be made. The licence duties collected under the First Schedule to the Licences Consolidation Act together with penalties in respect of the same are to be paid into the Consolidated Revenue Fund. These licences are in respect of agents of foreign firms, bankers, commercial travellers, firework sellers and newspaper publishers. All other licence duties together with the penalties in respect thereof are payable into the Provincial Revenue Fund of the Province in which the duty has been collected, that is to say where the trade, profession or occupation is carried on. These licences are enumerated in the Second Schedule to the Act. The effect of this is that uniform licence moneys throughout the Union will be payable in respect of all trades, occupations and professions.

Provincial Subsidies and Taxation.—This leads up to a consideration of the Provincial Subsidies and Taxation Amendment Act (No. 46), which, though not a consolidation Act, does declare in one measure the limits and extent of the powers of taxation by Provincial Councils and the sources and matters from which these bodies may derive provincial revenues for matters entrusted to the provincial administration.

S. 9 of this Act repeals s. 11 of and the First Schedule to the Financial Relations Act, 1913, and substitutes therefor a new s. 11 and a new First Schedule to that Act. An outstanding feature of the change is the specification of the matters in respect of which Provincial Councils may impose taxation. This includes a modification of s. 85 (1) of the South Africa Act, which enabled a Provincial Council to impose direct taxation within the Province.

The Provincial Councils will now be entitled to *raise* revenue by way of taxation through sources specified in the new First Schedule and through no other source whatever. These revenues are, for the purposes of ss. 81 and 85 of the South Africa Act, to be deemed to be

matters in respect of which it is competent for the Provincial Councils to enact Ordinances. Then, as indicated above, Provincial Councils may no longer enact Ordinances for licensing of trades, professions and occupations, because the Licences Consolidation Act provides for uniform licences throughout the Union. But also, as indicated, the Provincial Revenue Funds will have the licence moneys collected by the Union Government officials under the Second Schedule to that Act paid over to them. There has been, however, reserved to the Provincial Council the right to legislate for the grant by municipal or local authorities of licences where regulation and inspection and registration of business is desirable and where the duties and fees payable for such licences is not affected. That is no more than a public health matter in the localities concerned.

The Provincial Subsidies and Taxation Powers Amendment Act (as its short title implies) deals also with the method of determining the subsidy from the Union Government to which a Province shall be entitled. A substantial alteration is here made. Grants at varying rates set out in the Second Schedule to the Act and based on education statistics for the year preceding are to be paid to the Provinces in respect of pupils undergoing education in any of the institutions maintained or aided by the Province. It may be mentioned here that primary and secondary education is the principal cause of provincial expenditure and is the matter with which the provincial administrations are chiefly concerned. Special provision is made (s. 3) for grants in respect of native education. For the financial year 1925–6 there is to be paid to the four Provinces for this purpose certain specific sums, and in subsequent financial years payments are to be made from the Native Development Account (*vide supra*), to which an annual contribution of £340,000 is to be made from the Consolidated Revenue Fund of the Union. These grants are to be expended on conditions which the Union Government prescribes after consultation with the Minister of Native Affairs and the Administrator of the Province concerned, on the maintenance, extension and improvement of educational facilities among natives and for the adjustment of salaries of native teachers.

Fruit Export Control.—No. 12 was passed to remove the detriment which in recent seasons has been caused to the rapidly increasing fruit industry of the Union, owing to the lack of systematic arrangements for obtaining freightage for, and controlling shipments of, fruit intended for export. The Act provides for the establishment at Cape Town of a Fruit Export Control Board. Powers are vested in this Board to call for and receive from fruit farmers estimates and other particulars of the intended exports and from ship-owners and their representatives information as to space available and cold storage accommodation for fruit on ships calling at Union ports. At ports other than Cape Town, committees will be appointed to carry out the Control Board's instructions. In future no export or shipment of fruit from the Union is to be permitted except under contract or other arrangement made by, through or with the consent of the Fruit Growers' Co-operative Exchange of South Africa (an association which includes within its membership a large majority of the fruit growers of South Africa). The contract or arrangement must be approved and authorized by the Control Board. Further, the Land Bank is authorized to give, on terms and conditions

prescribed by it, guarantees for the performance, by the co-operative Exchange, of contracts entered into with ship-owners.

Orchards. — Another measure to assist the fruit industry is the Orchard Cleansing Act (No. 13). Areas may be proclaimed on request of representative local authorities or owners of fruit holdings within which the cleansing of orchards of insect pest or plant disease is to be compulsory upon owners and occupiers. The requests must be preceded by full public notice, and the Minister must, before Proclamation is issued, be satisfied that the requisite majority of persons or of the members of the local authority concerned are in favour of the action proposed. Within the proclaimed areas, designated officers of the Agricultural Department may enter and inspect orchards, and if any such officer discovers therein the existence of any insect pest or plant disease specified in the Proclamation, he may require the owner or occupier to cleanse the orchard of such pest or disease. Failure on the part of the owner or occupier to comply with this requirement entails criminal penalties and the payment of charges for cleansing by the Department's officers. Proclamations may, subject to similar preliminaries indicated above, be issued enabling levies to be made upon owners and occupiers in particular areas to defray the salary and travelling expenses of officers carrying out duties under the Act in areas specified in the Proclamation.

Agricultural Industries Advancement.—No. 16 enables levies to be made in certain circumstances in respect of certain agricultural products, *e.g.* ostrich feathers, sugar cane, sugar, cheese, pigs, bacon, the moneys levied being devoted to the promotion of the growth or production or rearing of those commodities or animals. The conditions precedent to the grant of applications to the Minister of Agriculture that the levy be made are set out in s. 1, which prescribes (*inter alia*) the proportion of the interest in the industry which must acquiesce in the making of the levy. S. 2 enables the Minister to withdraw a levy where the persons or associations at whose request the levy was made have ceased to control the specified proportion of the total of the products. In respect of ostrich feathers a special provision is made. The levy of 2 per cent. *ad valorem*, which was made as from September 1, 1923, is deemed to have been made under the Act and is to be continued until the total amount levied has reached £14,000. Levies in respect of ostrich feathers are to be based on the actual value at the port of shipment of feathers exported and are to be payable by the shippers.

The proceeds of any levy under the Act in respect of any particular product are to be paid into a special account from which appropriations may, from time to time, be made by the Minister of amounts to be expended on promoting and encouraging the growth of that product or to be handed over to any co-operative association or combination of growers formed for that purpose. The recipients of the proceeds of the levy are placed under particular obligations in regard to the expenditure thereof.

The Act also deals with grading of products, by penalizing the application to ungraded products of such labels, marks, brands, or designation as have been prescribed for graded products; and also by enabling officers of the Department to inspect and grade products and charge fees for their services.

Stock Diseases.—The Diseases of Stock Act, 1911, Further Amend-

ment Act (No. 18) confers further powers on the Minister of Agriculture to order the dipping or other treatment of stock with a view to the eradication or prevention of animal diseases, and enables him to prescribe the methods and periods of treatment and to fix the terms within those periods when the stock is to be so treated. It validates certain orders in this respect made by the Minister and held by the Courts to have been *ultra vires* under the existing law.

Public Auctions and Transactions in Live Stock and Produce.—No. 22 was passed so as to regulate, in the interests of the farming community, the sale by auction of live stock and agricultural produce. Farmers have not infrequently in the past been placed at considerable disadvantage by the existence of certain customs of the auctioneering business. The Act prohibits the sale of live stock by auction at any place to which all members of the public have not free access. There are certain exceptions to this prohibition in the case of sales by charitable organizations, or at meetings of agricultural societies or at licensed racing clubs, etc.

The Act imposes certain specific duties on auctioneers in respect of the sale by auction of live stock and the principal kinds of agricultural produce. The auctioneer has now to declare within the hearing of those present the name of the purchaser, and forthwith after conclusion of the sale to make out and deliver or transmit to each vendor a sales-note showing the name of the vendor and purchaser, the description of the stock or product sold, the price and deductions and the net amount due to the seller. The auctioneer is also forbidden to give any secret or undisclosed rebate, or refuse to accept any bid from a person able to comply with the conditions of sale. Further, the auctioneer must not sell to himself or any person associated with him in business; and he must not pay over to the vendor any amount less than is legally due to him. Certain exemptions from the Act are permitted in the case of small sales. In the case of sales of wool, mohair, hides, skins, cotton, sugar, the by-products of sugar-cane and ostrich feathers through an agent or factor, the Act requires him to make out and transmit to the vendor a sales-note containing substantially the same details as those required of the auctioneer when selling live stock or agricultural produce; and the other provisions of this Act indicated above are to be applied to such factors and agents.

Co-operative Societies.—No. 38 makes various amendments to the Act of 1922 found necessary after three years of the working thereof.

Government Attorney.—No. 25 provides for the establishment in Pretoria under the control of the Minister of Justice of an office of Government Attorney for the Union and at other places in the Union of branches of that office. The officer to be appointed Government Attorney must be a person admitted and entitled to practise as an attorney in some one of the Superior Courts of the Union. The functions of his office are the performance of such work on behalf of the Union Government and its departments as is by law, custom or practice performed by attorneys, notaries, conveyancers and parliamentary agents. The same functions may be performed, subject to terms arranged with the Minister, on behalf of Provincial Administrations and the Railways and Harbours Administration. The rights, privileges and duties of an attorney, notary or conveyancer lawfully performing functions under this Act are in general those of an ordinary practitioner, and the functions, in so far as they are functions which by law, custom or practice can be

performed by an attorney, notary or conveyancer, are to be discharged by practitioners thus qualified.

Provision is made for the receipt by the Government Attorney and other professional assistants of his of a salary from the Government, for the recovery, in proceedings conducted by him on behalf of the Government and its departments, of fees and costs in the ordinary course, and for the payment of fees and costs so recovered into the Consolidated Revenue Fund of the Union.

Diamond Control.—No. 39 provides for the control of the sale and export of diamonds by means of a Board of three persons appointed by the Government and selected for their knowledge and practical experience in the business of buying, selling and dealing in diamonds or of finance or public business. The Treasury may advance moneys to the Board to enable it to carry out its functions. These functions are to acquire and purchase diamonds from producers when instructed by the Government, and to export and sell them on behalf of and as agents of the producers. The Government has also power to limit in manner and time the quantity of diamonds which producers may dispose of, and to determine minimum price at which diamonds or diamonds of any particular class may be so disposed of. The important provision appears, however, to be s. 18, which practically excludes the Board from functioning whenever, in consequence of conferences of producers convened by the Minister, agreements have been arrived at relative to the quantity of production and the minimum prices for the disposal of diamonds.

Wild Birds Export Prohibition.—Other administrative Acts include the Wild Birds Export Prohibition Act (No. 6), which prohibits the export from the Union, by land or sea, of wild birds of any species, except on a permit from the Minister of Agriculture and on conditions laid down in the permit.

Housing.—The Housing Act, 1920, Amendment Act (No. 5), which enables certified hostels to be regarded as dwellings for the purposes of the Act of 1920, whereby advances could be made for housing purposes.

Merchant Shipping.—The Merchant Shipping (Certificate of Competency) Act (No. 45), which enables certificates of competency to be granted to persons employed in positions of responsibility on ships and provides for suspending and cancelling such certificates, ensures that British foreign-going ships, British home-trade ships and fishing boats, when going to sea from any port in the Union, shall be under the direction of a competent person.

Land Settlement. — The Land Settlement Acts were once more amended by Act No. 26, but the amendment contained no new principle.

Railways.—A large railway construction programme was authorized by Act No. 33; while by Act 37 the Railway Administration obtained Parliamentary ratification of an agreement to acquire the undertaking of the new Cape Central Railway Company. Thus the last privately owned railway of any length in the Union disappears by becoming part of the Government railway system.

2. CAPE OF GOOD HOPE.

[It is hoped to publish this Summary in the next *Review*.]

3. NATAL.

[*Contributed by the* Hon. Mr. Justice F. S. Tatham, D.S.O.]

Local Townships.—The Townships Act (11 of 1881) enables small communities to establish local control of such subjects as roads, water, lighting, etc., with power to borrow money for the establishment of services. The Ordinance 3, 1925, alters the qualifications of a voter so as to limit the vote to British subjects who are either (*a*) owners of land, within the area, of the value of £50 or more, or (*b*) renters of land of the yearly value of £10 or more, or (*c*) resident within the area and in receipt of an income of not less than £8 a month, provided that, in the last case, application to be placed on the voting roll shall be made annually. In any case, no person who does not possess a Parliamentary franchise may be placed upon the roll. This excludes natives and Asiatics. There is no sex disqualification.

Public Health Committees.—Ordinance 7, 1923, having been declared by the Appellate Division of the Supreme Court of South Africa to be *ultra vires* in certain respects, has been amended (No. 4) under powers conferred by the Union Parliament. The provisions for electing Local Health Committees have been amended. Vacancies caused casually or by retirement are filled by elections in August of each year. Three weeks' notice of an election must be given in a local newspaper. A meeting of local voters is to be held. Names of candidates to be proposed for election to the Committee must be lodged with the Chairman not later than six days before the date of the meeting. Nomination papers must be signed by three voters and by the candidate. The chairman of the Local Health Committee is to preside at election meetings, and all questions of procedure and qualification are to be decided by him. Voting is by ballot. Every freshly elected Committee appoints its own District Chairman. Retirement from the Committee takes place automatically, three members retiring each year. The order of retirement is fixed by the number of votes recorded for members, those obtaining the least retiring first, and so on until the personnel of the Committee is exhausted, from which time retirement takes place after two years' service. The Administrator may fill temporary vacancies in the Committee. If a Committee causes any person to be isolated in case of disease, it may recover the cost of his maintenance from his estate or from any person liable in law to maintain such person.

Road Boards.—The Road Boards Act (Natal), 35 of 1901, erects local Boards, which are elective, to determine questions affecting the right of passage over private lands. The Boards have power to confer rights of way where none exists, to close rights of way which are no longer needed and to determine whether or not rights of way have been acquired by prescription or otherwise. The Act distinguishes between "roads" and "by-roads." The Ordinance (6 of 1925) defines "by-road" as a road used for vehicular traffic by not less than three land-holders, occupying land in the vicinity. A person desiring to bring an existing or proposed new by-road under consideration is required to notify the Roads Engineer, who causes an inspection to be made, and then summons a meeting by advertisement, when the scheme is discussed. The meeting determines the contribution towards cost of construction and maintenance. It is the duty of the chairman to

see that a scheme, reduced to writing, is agreed to by a majority vote. The scheme must provide, *inter alia*, for terminal points, character of work to be done, the person to be held responsible for doing it, the limits of cost of construction and maintenance, the name of each person liable to contribute and the amount of his annual contribution. Provision is made for the scheme becoming final unless an appeal is made within a stated period. Finality involves a legal obligation, enforceable at law, upon all contributors who have been named in the scheme. The Ordinance contains provision for appeals by dissatisfied contributors, for periodical readjustment of contributions, for fixing liability upon succession in title, for loans for road construction from provincial funds, and other details too long to be set out seriatim.

Noxious Weeds.—The Law 38 of 1874 makes it an offence for the occupier or owner of land to allow certain weeds, described as noxious, to grow upon his land.

Ordinance No. 16 modifies the law by requiring a notice to be served upon a landowner to destroy the weeds. Failure to do so within the prescribed period warrants a prosecution. Instead of prosecuting, an inspector may himself cause the weeds to be eradicated at the cost of the landowner. The throwing of noxious weeds into a stream, or upon a road, or upon the land of another is prohibited. Inspectors are given right of entry upon private land. The botanical and colloquial names of the weeds included in the expression "noxious weeds" are given in a schedule.

4. ORANGE FREE STATE.

[*Contributed by* H. Pring, Esq.]

The legislation passed by the Provincial Council of the Orange Free State in 1925 consisted of twelve Ordinances—of these Nos. 1, 2, 4 and 7 were Appropriation Ordinances.

Roads.—The Roads Ordinance No. 6 of 1912 omitted to define the procedure for indicating outspans on farms through which no main or district road runs, with the result that the Surveyor-General was unable to pass surveyors' diagrams and serious delays occurred. Ordinance No. 3 of 1925 was passed as a temporary means of overcoming the difficulty pending a general revision of the law relating to outspans.

The Ordinance merely lays down points of procedure in order to meet the exigencies of the Surveyor-General's Office and in no way affects the servitude of "right of outspan" which, in terms of Ordinance 6 of 1912, attaches to farms of more than 100 morgen in extent.

Tax on Greyhounds.—Ordinance No. 5 imposes a tax of £5 on dogs of the type or breed known as "greyhound" in lieu of the tax of 10*s.* imposed on dogs generally by Ordinance No. 7 of 1921. The provisions of Ordinance No. 7 of 1921 relating to collection, payment, exemption, etc., are made applicable to this special tax on greyhounds.

Shop Hours.—Ordinance No. 6 repeals and re-enacts with amendments the law relating to shop hours and shop assistants. Trading on a Sunday or on a public holiday is specifically prohibited except in so far as certain privileged shops are concerned, in regard to which special provision is made.

Game Reserve.—The farm Somerville in the Winburg District was

reserved in favour of the Provincial Administration as a game reserve. Ordinance No. 8 declares the farm to be a reserve and gives power to the Administrator to frame all such regulations as may be necessary.

Entertainment Tax and Licences.—Ordinance No. 9 amends ss. 1 and 10 of the Entertainment Tax and Licensing Ordinance, 1916 (No. 6 of 1917). The amendment consists of the redrafting of the definition of "entertainment" and separating therefrom the purposes for which the Administrator may, if satisfied, grant exemption. These purposes are now stated under the new wording of s. 10, entertainments for educational purposes being exempted in addition to those for charitable purposes.

Ordinance No. 10 amends the Liquor Licences Ordinance, No. 20 of 1922. The licence of a *bona fide* golf club is reduced to £25 per annum, the ordinary club licence being £40 per annum.

Local Government.—Ordinance No. 11 consolidates, with amendments, all laws in force in the Province relating to municipalities and village Boards of Management.

Tax on Persons and Companies.—Consequent upon the promulgation of the Provincial Subsidies and Taxation Powers Act, No. 46 of 1925,[1] passed by the Union Parliament, the greater portion of the Orange Free State Education Tax Ordinance was rendered *ultra vires*. Ordinance No. 12, providing for the imposition of a tax on persons and companies, was therefore passed. The rates of tax are as follows:

(1) In respect of a company which received no taxable income from sources within the Province or of a company whose taxable income received from sources within the Province did not exceed £200—Five Pounds.

(2) In respect of any other company a tax of sixpence in each pound of such portion of the taxable income of such company as the Commissioner for Inland Revenue or any officer acting on his behalf determines to have been derived from a source within the Province.

(3) In respect of adults who were married at 30th day of June, 1925:

(*a*) If not liable for income-tax, the sum of One Pound.

(*b*) If liable for income-tax, the sum of One Pound plus twenty per centum calculated on each completed shilling of the amount of his assessment for Union income-tax as the Commissioner for Inland Revenue determines to have been paid or to be payable in respect of income from sources within the Province.

A widower, widow and divorced person supporting his minor child or children and an unmarried person who is the sole support of a parent shall be rated as a married adult.

In respect of adults who were unmarried at the 30th day of June, 1925:

(*c*) If not liable for income-tax, the sum of One Pound.

(*d*) If liable for income-tax, the amounts mentioned in paragraph (*b*) of this subsection plus fifty per centum thereof.

Exemption from payment of the tax could be claimed in certain circumstances specified in the Ordinance.

5. NORTHERN RHODESIA.

[It is hoped to publish this Summary in the next *Review*.]

[1] Vide p. 140.

6. SOUTHERN RHODESIA.

[It is hoped to publish this Summary in the next *Review*.]

7. TRANSVAAL.

[*Contributed by* G. HARTOG, ESQ., *and* V. ROSENSTEIN, ESQ.]

During 1925 twenty-six Ordinances were passed, of which seven were Appropriation Ordinances.

Removal of Dead Bodies.—No. 7 makes it an offence for any person to remove or disturb (without the Administrator's consent) the remains of a body which has been interred in a burial-place. (The Ordinance does not apply to temporary disturbances for the purpose of interring another body in the same grave.)

Pedlars and Hawkers.—No. 8 makes it an offence for any person to carry on as a pedlar or hawker outside the jurisdiction of a local authority within a mile of premises of a licensed general dealer. The Ordinance does not apply to (*a*) persons exempt under s. 3 of the Revenue Licences Ordinance, 1905, (*b*) proclaimed alluvial diggings where no local authority exists.

Rating.—No. 9 amends Ordinance No. 6 of 1912, s. 3, by adding to the definition of rateable property "A" any interest in land within the jurisdiction of a health committee which is either held by the Governor-General or Government in trust for a future municipal council or is reserved for the use and benefit of a health committee; and s. 19 (1) gives local authorities power to charge interest not exceeding 7 per cent. per annum on arrear assessment rates.

It also amends Ordinance No. 1 of 1916, s. 8, by increasing the minimum rate on property from 2*s.* 6*d.* to 5*s.* and excluding land in a lawfully established township from being dealt with under mining land. The Ordinance further provides for the remission, subject to the approval of the Administrator, of taxes payable in respect of erven to municipal councils to which the principal Ordinance as amended does not apply by reason of any Proclamation under s. 144 (1) of Ordinance 9 of 1912.

Shop Hours.—No. 10 repeals s. 6 (1) of the Shop Hours Ordinance of 1923 and substitutes a new sub-s. 1, which provides that where a public holiday falls on a Monday or where it immediately succeeds another public holiday, then on such public holiday bakers, butchers, fishmongers and ironmongers may, after giving notice to the shop inspector, keep open their shops until 9 a.m.

The Ordinance allows an occupier under s. 9 of the 1923 Ordinance to use under certain conditions a mechanical contrivance in lieu of an attendance register.

General Dealers' Licences.—No. 11 provides for the control of the issue of general dealers' licences, the main provisions being: (*a*) Every applicant for a licence must produce a certificate to the Receiver of Revenue who issues licences. (*b*) Applicants must apply for such certificates to the local authority or to the rural licensing board as the case may be. (*c*) The Administrator constitutes rural licensing boards and determines the area of their jurisdiction. (*d*) Applicants for certificates must advertise in the Provincial Gazette at least 14 days before the date of the application. (*e*) Local authorities or rural boards may in their discretion refuse licences on the following grounds: (1) unsuita-

bility of premises; (2) unsuitability of locality for the particular kind of business; (3) unsuitability of the person. (*f*) Members of the police force and certain other persons may lodge objection to the granting of a licence. (*g*) Decisions of local authorities or rural boards in respect of new licences are final. (*h*) Local authorities or rural boards may suspend licences pending building construction, such decisions in cases of renewal of licences being appealable. (*i*) An application refused cannot be renewed for six months. (*j*) The Administrator may make regulations.

Teachers' Pensions.—No. 12 repeals s. 13 of the Teachers' Pensions Ordinance (5 of 1916) as amended by s. 12 of Ordinance 15 of 1918 and re-enacts the same substantially, the difference being that the section applies as well to females who are discharged as to those who retire in contemplation of marriage, such marriage to take place within three (instead of six) months of the termination of the service.

Five years' service is defined as service for five calendar years or for the number of school terms contained in five calendar years.

Municipal Elections.—No. 13 amends the following sections of the Municipal Election Ordinance.

In s. 6 it extends the disqualification of councillors to the spouses of persons holding places of profit under the council. Voters' rolls to be deposited as well in principal post and magistrates' offices (s. 16). Lays down definite hours for receiving nominations as candidates (s. 31). Limits the period for withdrawal of a candidate to 12 noon on the third day before the polling day (s. 35). Candidates to be present at opening of ballot boxes. Agents present restricted to two for each candidate (s. 46). Period for paying election expenses reduced from 42 to 30 days after election (s. 59 (5) and (6)). The period for return of election expenses increased from 30 to 40 days after poll. Such return to include moneys provided by persons other than candidates (s. 60).

Poll Tax.—No. 15 (*a*) amends the principal Ordinance 7 of 1921: (1) By including among those liable all income-tax payers who derive income from sources within the Province. (2) Extends the period of October 4 in each year or to 30 days after the relative Union tax assessment has been made. (3) Extends the exemptions in s. 15 to male adults (not income-tax payers) of sixty years of age.

(*b*) The Ordinance imposes a duty (with penalties for breach) on income-tax payers who claim that any portion of their taxable income is derived from sources outside the Province, to apply for determination of the amount of assessed income-tax in respect of taxable income derived within the Province.

(*c*) Amends s. 1 of Ordinance 9 of 1922 by varying the rates levied on income-tax payers.

Vermin Destruction.—Ordinance No. 19 applies to areas outside the jurisdiction of local authorities and provides for the establishment of various clubs for the purpose of destroying vermin (lynx, and certain types of jackal and other animals or birds declared to be vermin by the Administrator). In districts where such clubs exist, private persons shall not lay poison. No vermin clubs shall hunt vermin on farms without the consent of the owner, but if such is unreasonably withheld, the Administrator may grant such consent, in which case the farm owner shall pay to the club certain prescribed fees for any vermin killed. Members of clubs in certain cases exempt from paying dog tax. Contravention of the provisions constitutes an offence.

Registration and Control of Dogs.—No. 20 amends the principal Act (23 of 1907) by providing that no certificate of registration or renewal is necessary in case of a watch-dog, but metal badges are to be worn by such dog. It extends the exemption of payment in s. 2 of the principal Act to all resident farm owners or lessees thereof, and to districts where stock is liable to destruction by lions and leopards. S. 5 of the principal Act is amended by allowing farmers to destroy dogs only if trespassing and not being under the control of any person.

Townships.—No. 22 amends the principal Act (34 of 1908), s. 6, by providing that where a township is sought to be established in a municipality, the council thereof may appoint a member of the Board. The Administrator may lay down certain conditions with regard to the construction and maintenance of streets by township owners in any proposed township within a municipality, and for contribution by them towards kerbing, draining or provision of water, trams, light, sewerage, etc.

Companies Tax.—The principal Ordinance is amended by No. 23 so as to exempt from payment of this tax mutual life insurance companies, and such portion of the taxable income of non-mutual life insurance companies as is distributed among its policy holders. (It seems that other insurance companies are subject to the provision of the Ordinance.) Ss. 3, 4, 6, 9, 11 and 12 amended accordingly.

Licensing of Importers. — No. 24 provides for the imposition of a licence duty on the value of goods imported from beyond the Union for sale within the Province, and provides for the taking out of an importer's licence on payment of duty on the scale laid down in s. 4. Penalties are prescribed for the contravention of the provisions of this Ordinance.

Licensing of Bookmakers and Taxation.—No. 26 repeals the following Ordinances: 16 of 1917, 10 of 1918, 5 of 1921, 6 of 1921, 21 of 1925 and 25 of 1925,[1] and consolidates into one measure both the licensing of bookmakers and the taxation in respect of betting. The main provisions are that all bookmakers must be licensed; they must pay a tax on all winning bets, the amount varying from 5 per cent. to 2½ per cent., according to the situation of the racecourse; they must lodge security for the payment of this tax; they shall lodge a sworn statement of their transactions each week (the making of a false statement amounting to perjury); their books are subject to demand for inspection by the Commissioner of Revenue.

[1] The principal Ordinances were repealed as a result of the case of *Ingle* v. *Transvaal Provincial Administration* (Appellate Division, April 1926), which decided that the sections which imposed on bookmakers the duty of paying a tax on winning bets was *ultra vires* the Provincial Council, as being an indirect tax.

BRITISH EMPIRE.

VII. BRITISH INDIA.

[*Contributed by the* Hon. Sir Henry Moncrieff-Smith, C.I.E.]

The year 1925 saw a return to normal activity on the part of the legislatures of British India. The total number of Acts passed by the Indian Legislature and the nine Provincial Legislative Councils was 106, being nearly twice as large as the number passed in 1924.

1. ACTS OF THE INDIAN LEGISLATURE.

Acts passed—39.

Criminal Law.—Act No. 29 brings about a very considerable advance in the sphere of social legislation. It amends s. 375 of the Indian Penal Code, which defines the offence of rape, by raising the age of consent from twelve to fourteen years, but at the same time it drew a distinction between sexual intercourse within and without the marital relations by fixing the age of consent in the former case at thirteen years. In this case also, *i.e.* the case of sexual intercourse by a man with his own wife, the wife being between the ages of twelve and thirteen years, the law has provided for a minor punishment of imprisonment for two years instead of transportation for life or imprisonment for ten years, which is the penalty in all other cases.

The Obscene Publications Act (No. 8) was passed to give effect to the International Convention for the suppression of the circulation of, and traffic in, obscene publications, dated the twelfth day of September, One Thousand Nine Hundred and Twenty-three, which was drafted by the International Conference which met at Geneva under the auspices of the League of Nations on August 31, 1923. The Indian law on the subject was for most purposes and in most respects adequate to the requirements of the Convention, but there were one or two points in which it fell somewhat short. The amended law, as contained in s. 292 of the Indian Penal Code and s. 98 of the Criminal Procedure Code of 1898, now gives wider powers of dealing with all persons who are in any way connected with the circulation or publication of obscene objects. S. 293 of the Indian Penal Code provides an enhanced penalty in cases where an offence is committed in respect of persons under the age of twenty years.

In 1920, 1922 and 1924 the Madras, Bengal and Bombay Legislatures, respectively, had passed Acts somewhat on the lines of the English Children Act. In some respects these Acts were *ultra vires* in so far as they conferred appellate and revisional jurisdiction on the High Courts of Judicature, a function which is only within the competence of the Indian

Legislature. Act No. 35 was therefore passed to validate the provincial enactments in this respect.

Cantonments.—The Cantonments (Amendment) Act (No. 7) was passed to remove certain defects which had come to light in the first year's working of the Cantonments Act, 1924, and also to give effect to certain official changes in military nomenclature. Act No. 10 amends the Cantonments (House Accommodation) Act, 1923 (No. 6), for similar purposes.

Income-tax.—Two small Acts were passed to amend the Indian Income-tax Act (No. 11 of 1922), for the purpose of tightening up the law with regard to the recovery of taxes. Act No. 5 was enacted as a result of a decision of the Bombay High Court which would have enabled individual members of a firm to escape payment of super-tax in years in which changes had taken place in the constitution of the firm. The Act legalizes the practice of the department which the Court's judgment had declared to be illegal. Act No. 16 enables income-tax in respect of overseas pay drawn in sterling in England by certain officers to be recovered in India by the authorities which pay the officers the rest of their salaries.

Finance.—For the first time since 1922 the annual Finance Act (No. 13) was agreed to by both Houses of the Legislature, and there was no occasion for the Governor-General to exercise the powers of certification vested in him by s. 67D of the Government of India Act. The rates of salt duty, postage, income-tax and super-tax prescribed by the Indian Finance Act, 1924, are left unchanged. Certain minor alterations are made in the tariff, the most important of which is a reduction of the duty on motor spirit produced in and imported into British India.

Customs.—Act No. 14 makes numerous changes in the Indian Tariff Act (No. 8 of 1894). For the most part they take the form of substituting specific duties in place of *ad valorem* duties on certain articles such as sugar and cigarettes. It was explained that the reason why these changes formed the subject of a separate Bill instead of being included in the Finance Bill was that they were not being made primarily with reference to the revenues of the financial year 1925–6.

Salt and Opium.—Act No. 22 transfers the control of the Salt Department in Bombay and Madras from the Local Governments to the Government of India working through the Central Board of Revenue. The Reforms had drawn a clear distinction between the functions of the Central and Provincial Governments, and salt having been classified as a Central subject, it had become desirable to take away control from the Provincial Governments.

Act No. 27 was passed with a similar object, namely, to bring the Opium Department directly under the control of the Central Government.

Paper Currency.—Act No. 2 amends the Indian Paper Currency Act, 1923, for the purpose of enabling paper currency to be issued against securities up to a total of 100 crores of rupees in place of the previously existing maximum of 85 crores of rupees in order to prevent excessive monetary stringency.

Industries.—Act No. 31 was passed with a view to the rehabilitation of the Indian coal export trade. It provides for the constitution of a Coal Grading Board to grade coal intended for export and for the granting of certificates for each consignment. It was hoped that these measures would assist the Indian coal trade to recover its export markets.

Act No. 12 was designed to enable the cotton ginning and pressing trade to protect itself by providing for the marking of bales and the record of ownership so as to prevent such malpractices as damping, mixing and adulteration which had injured the quality and reputation of Indian cotton. The Act further provides that unmarked bales cannot be tendered in fulfilment of a contract if marked bales are demanded by the purchaser. The Act is supplementary to the Cotton Transport Act, 1923. The latter Act was also amended in the course of the year by Act 34. The principal Act enabled a Local Government to prohibit, except under a licence, the import of cotton or any specified kind of cotton into a protected area. This contemplated only total prohibition of imports by all means of transport, and the amending Act allows Local Governments discretion to prohibit imports wholly or in part. A further measure, namely, Act No. 18, deals with the cotton industry. The Indian Cotton Cess Act (No. 14 of 1923) contained no provision for the refund of the cess levied on cotton exported from British India by land in case of its reimportation into British India. Most of the cotton exported by land to the Portuguese territory of Goa is reimported and the amending Act provides for refunds in such cases and for the transport of cotton through foreign territory without payment of the cess.

Act No. 25 gives effect in part to a recommendation of the Indian Tariff Board for the protection of the paper and paper-pulp industries. The Act provides this protection by increasing for a period of seven years the duty on certain classes of paper from 15 per cent. *ad valorem* to a specific duty of 1 anna per pound.

Workman's Breach of Contract.—Act No. 3 repeals an enactment of 1859 which provided for the punishment of breaches of contract by workmen. The old Act enabled a defaulting workman to be brought before a magistrate, who could take security for the performance of the contract and, in some cases, could sentence the defaulter to a term of imprisonment. This enactment had for a long time been the subject of severe criticism in the Legislature, and two years previously the Government of India had given an undertaking to repeal it. At the same time the opportunity was taken to repeal ss. 490 and 492 of the Indian Penal Code which provided penalties for cognate breaches of contract. The repeal took effect from April 1, 1926.

Merchant Shipping.—The main object of Act No. 11, which amends the Indian Merchant Shipping Act, 1923, is to meet difficulties which had been experienced in regard to the pilgrim traffic to Jeddah. The repatriation of destitute pilgrims from Jeddah had for some time been a source of anxiety and recurring expenditure to the Government of India. The main provision of the amending Act lays down that no pilgrim shall be received on any pilgrim ship unless he is either in possession of a return ticket or has deposited a sum sufficient to defray the cost of the return ticket. The Act also provides for the refund of the passage money or of the deposit in certain cases, and requires the master, owner or agent of the pilgrim ship to give security, which is liable to forfeit in cases in which pilgrims holding return tickets are unduly detained at Jeddah after they had applied for a return passage.

Carriage of Goods by Sea.—The object of Act No. 26 is to carry out the desire to secure uniformity among all maritime countries in the definition of the liabilities and risks attaching to the carrying of goods by sea. The Act closely follows the provision of the Carriage of Goods by Sea

Act, 1924, which was passed by the English Parliament, and gives statutory force with certain modifications to the rules adopted by the International Conference on Maritime Law held in Brussels in October 1922 and October 1923. The Act provides for special treatment for Indian coastal traffic.

Civil Procedure.—Act No. 32 was passed to supplement the Oudh Courts Act of 1925, an enactment of the United Provinces Legislative Council which provided for the constitution of a Chief Court in Oudh. The constitution of that Court involved a large number of amendments in Imperial Acts which could not be made by the local Legislative Council inasmuch as they affected the jurisdiction of the High Court of Judicature at Allahabad which was established by Letters Patent.

Act No. 4 amends and consolidates the Indian Soldiers (Litigation) Act, 1918, which was designed to provide special protection in respect of civil and revenue litigation of Indian soldiers serving under war conditions. The Act was found so beneficial to Indian soldiers who were absent from their homes that it was decided to extend its provisions to Indian soldiers serving on garrison duty outside British India or at certain more or less isolated posts. This is effected by Act 4, which at the same time considerably extends the definition of service under war conditions.

Transfer of Property.—Act No. 38 amends the Transfer of Property Act, 1882, in order to remove any doubt as to whether the transfer of an actionable claim, and in particular of a policy of life insurance, is complete and effectual upon the execution of an instrument in writing signed by the transferor.

Provident Fund.—Act No. 19 consolidates and amends the law relating to Provident Funds hitherto contained in Act No. 9 of 1897, which has been frequently amended. The chief change made in the law is to extend, with certain modifications, to the dependents of a deceased depositor the privileges previously enjoyed by widows and children. The Act also provides a speedy method for the disbursal of comparatively small amounts standing in deposit. During the passage of the Bill there was considerable controversy in regard to the circumstances in which the authority administering the Fund should be authorized to deduct from the amount to be paid the whole or part of its own contribution to the Fund, together with interest thereon. The Act authorizes such deduction in the case of a liability incurred by the depositor to that authority, in the case of dismissal for any reasons specified in this behalf in the rules of the Fund and in the case of resignment of employment within five years. Act No. 28 makes some minor amendments in Act No. 19 to remove defects which are so liable to occur when the Legislature sets itself to the task of drafting an amendment in a Bill.

Prisons.—Act No. 17 makes numerous amendments in the Prisons Act, 1894, for the purpose of giving effect to recommendations of the Indian Jails Committee involving reform as regards prison offences and punishment.

Legislatures.—Act No. 23 takes the first step towards defining the privileges and immunities of members of the legislatures in British India as such. The Act in the first place exempts them from liability to serve as jurors or assessors in the criminal courts, and in the second place exempts them from arrest or detention in prison under civil process during the continuance of a meeting of the Chamber of which they are

members or of a Committee of the Chamber where they are members of such Committee.

The Legislative Assembly for the first time early in 1925 was called upon under the provisions of the Government of India Act to elect its own President, and the statute laid down that the elected President should receive such salary as might be determined by an Act of the Indian Legislature. Act No. 6 accordingly fixes the salary of the President of the Legislative Assembly at Rs.4,000 *per mensem*. At the same time this Act lays down that the elected President shall not during his tenure of office practise any profession or engage in any trade or undertake for remuneration any employment other than his duties as President.

Statute Law Revision.—The Indian Succession Act (No. 39) is a pure measure of consolidation. The law on the subject of Succession in British India had hitherto been contained in fourteen different enactments. A Bill to consolidate these was prepared by the Statute Law Revision Committee and though it contained nearly 400 clauses and numerous schedules it was passed by both Houses of the Indian Legislature without material amendment.

Act No. 37 is a repealing and amending Act of the usual nature. It removes several purely formal defects from the Statute Book.

The remaining Acts of 1925 made for the most part unimportant amendments in existing enactments. Act No. 24 supplements an Act of the Punjab Legislative Council for the usual reason, namely, that the local council has no power to affect the jurisdiction of a High Court of Judicature.

2. ACTS OF THE GOVERNOR-GENERAL.

The Bengal Criminal Law Amendment (Supplementary Act).—In the Review of Legislation for 1924 a brief description was given of the Bengal Criminal Law Amendment Ordinance made by the Governor-General under s. 72 of the Government of India Act. It was there mentioned that the Ordinance had a duration of six months only, and that it had been replaced by an Act made by the Governor of Bengal which was further supplemented by an Act made by the Governor-General. The Bengal Act followed very closely the provisions of the Ordinance, but had omitted certain of its provisions which affected the jurisdiction of the High Court of Judicature at Calcutta in that it conferred powers of appeal and confirmation of sentences. The Bengal Legislative Council refused leave for the introduction of the Bill, whereupon the Governor, in the exercise of his powers conferred by s. 72E of the Government of India Act, certified that the passage of the Bill was essential for the discharge of his responsibility over the reserved subject of "administration of justice." The Bill thereupon became an Act of the local legislature under the provisions of that section. Subsequently the Government of India introduced into the Legislative Assembly a Bill to supplement the provincial law by conferring on the High Court powers of repeal and confirmation. In the course of the consideration of this Bill the Legislative Assembly rejected its operative clauses, whereupon the Governor-General recommended, under s. 67B of the Government of India Act, to the Legislative Assembly that it should pass the Bill in the form in which it had been introduced. This recommendation was rejected by the Assembly and the Governor-General thereupon certified that the passage of the Bill was essential for

the tranquillity of the Presidency of Bengal and recommended to the Council of State that it should pass the Bill in the form in which it had been introduced in the other Chamber. The Council of State passed the Bill in that form by a large majority, and the Governor-General signified his assent to the Bill, which thereupon became law as an Act of the Governor-General.

3. MADRAS.

Acts passed—8.

Religious Endowments.—The Madras Hindu Religious Endowments Act (No. 1) was the subject of considerable controversy not only during its passage through the local Legislative Council, but also in the interval between its passing and its becoming law by the signification of the Governor-General's assent. In the first place it constitutes a whole-time salaried Board vested with the general superintendence of temples and other religious endowments. It also constitutes local committees which are given power to suspend, remove or dismiss a trustee of a temple in certain cases of misconduct or disability. A trustee so removed is given power to appeal to the Board and, in certain cases, to the Courts. The Board is enabled to settle schemes, after due publication, for the proper administration of endowments, while the trustee, or other interested person, may institute a suit in the courts to have the Board's order set aside or modified. The Act provides for the maintenance of a register of endowments and of accounts, which are to be audited annually.

Civil Courts.—Act No. 3 consolidates and amends the law relating to subordinate civil courts in the Presidency. The amendment enables more than one judge to be appointed to a subordinate Court and defines the functions of the additional judges. The pecuniary limits of the jurisdiction of the Courts are extended.

Ports.—Act No. 8 provides for the regulation and improvement of the port of Cochin through a Board of Trustees constituted under the Act. The provisions in the main follow those of other Port Trust Acts.

4. BOMBAY.

Acts passed—18.

Rent.—Act No. 3 extends, with some modification, for a further period of three years the provisions of the Bombay Rent (War Restrictions) Act, 1918, in its application to Karachi.

Excise.—Act No. 4 requires clubs selling liquor to a member to take out a licence for the sale.

Adulteration of Food.—The provisions of the law in force in Bombay on this subject were hitherto contained in enactments dealing with municipalities. Act No. 5 brings these together and amends them mainly on the lines of the English Act of 1875.

Betting.—Act No. 6 imposes a tax not exceeding 4 per cent. on money paid into totalizators by way of stakes or bets and reduces the entertainment tax on money paid for admission to racecourses from 50 per cent. to 25 per cent.

Co-operative Societies.—The law on this subject was hitherto contained in an Act of the Central Legislature. Under the Reforms co-operative societies had become a transferred subject, that is to say, one under the control of ministers and within the scope of Provincial Legislatures. Act

No. 7 re-enacts the law mainly with the object of adjusting it to the local conditions of the province. It also introduces a definite system for the winding up, liquidation and dissolution of societies, and provides a summary procedure for the recovery of debts due to societies.

Stock Exchange.—The Bombay Securities Contracts Control Act (No. 8) requires a Stock Exchange to submit for the sanction of the Local Government rules regulating and controlling transactions in securities other than ready delivery contracts, and transactions made otherwise than in accordance with the rules are declared to be void.

Children.—Act No. 10 adds to the Bombay Children Act, 1924, several provisions on the lines of the English statutes penalizing drunkenness while in charge of a child, the giving of intoxicating liquor to a child, the inciting of a child to beg or borrow and the taking of an article in pawn from a child.

City Improvement.—The City of Bombay Improvement Act, 1898, constituted an improvement trust for the expansion of the city which was avowedly of a temporary nature, and Act No. 16 transfers the property and the duties of the Board of Trustees to the City Corporation which is to carry on the work through a specially constituted committee.

Municipalities.—Act No. 18 is an enactment of over 200 clauses laying down a code for the management of municipal affairs in the larger cities of the Bombay Presidency. Hitherto there had been only one enactment applying to all municipalities with the exception of the City of Bombay. The new Act vests wider powers in the executive officers of the larger municipalities.

Act No. 1 makes numerous amendments in the City of Bombay Municipal Act, 1888. They are of no great importance.

The remaining Acts of 1925 make minor amendments in existing enactments.

5. BENGAL.

Acts passed—5.

President's Salary.—Act No. 2 fixes the salary of the first President of the Local Legislative Council at Rs.3,000 *per mensem*.

Highways.—Act No. 3 gives the Local Government statutory powers to provide for the safety and repair of roads under its direct control similar to those vested in district boards by the Local Self-government Act in regard to roads under their control.

Universities.—Act No. 4 lays down that the Local Government shall contribute annually to the Dacca University a sum of five and a half lakhs of rupees. Hitherto the University had to rely for its income mainly on a Government grant, which was subject annually to the vote of the Legislative Council.

Acts Nos. 1 and 5 are unimportant amending measures.

Reference has already been made under para. 2, Acts of the Governor-General, to the Bengal Criminal Law Amendment Act. As there stated, this Act was made by the Governor after certification in the exercise of his powers conferred by s. 72E of the Government of India Act.

6. UNITED PROVINCES.

Acts passed—5.

Gambling.—The United Provinces Gambling (Amendment) Act 1 of 1917 was passed with the object of suppressing gambling or wagering on

the sale of opium chests or cotton bales. A ruling was given, however, by the High Court of Judicature at Allahabad that the Act of 1917 was ineffective for the purpose for which it was designed, and Act No. 1 was passed to provide for a more comprehensive definition of common gaming-house by an amendment of the Public Gambling Act, 1867.

Opium.—Act No. 2 represents an attempt to control the practice of opium smoking. It prohibits the assemblage of two or more persons with the common object of smoking opium or preparing opium for smoking purposes, and it penalizes persons who keep premises for such a purpose as well as the persons who use them. The Act vests the powers of search and detection in the officers of the Excise Department.

President's Salary.—Act No. 3 fixes the salary of the first elected President of the United Provinces Legislative Council at Rs.2,000 *per mensem*.

Civil Courts.—The main object of the Oudh Courts Act (No. 4) is to replace the Court of the Judicial Commissioner of Oudh by a Chief Court. The opportunity was taken to amend and consolidate the law relating to subordinate civil Courts in Oudh in certain respects. Act No. 5 amends the Bengal, Agra and Assam Civil Courts Act, 1887, so as to bring the pecuniary limits of jurisdiction of a subordinate Court in Agra into line with those of the Courts in Oudh.

7. PUNJAB.

Acts passed—11.

Excise.—Act No. 2 amends the Punjab Excise Act, 1914, so as to provide more deterrent penalties for offenders against the excise law. The statement of Objects and Reasons to the Bill alleged that there had been a great increase in the illicit manufacture of intoxicating liquors.

Opium.—In the same way Act No. 3 enhances the punishment inflicted under s. 9 of the Opium Act, 1878, for offences connected with the smuggling and manufacture of opium.

Sikh Gurdwaras.—Act No. 8 is a comprehensive measure to provide for the better administration of Sikh Gurdwaras and shrines in the Punjab. The reforms in this direction brought about by the Sikh Gurdwaras and Shrines Act, 1922, which the new Act repeals, had, it was alleged, failed to satisfy the aspirations of the community. The Act creates an elaborate system of authorities to deal with the matter. A tribunal, presided over by a High Court judge, is entrusted with the duty among other matters of deciding what shrines shall come within the provisions of the Act. A Central Board, with a very large elected majority, is created to exercise supervision over the various committees entrusted with the management of gurdwaras. Accounts have to be maintained, and are subject to annual audit.

The other Acts of 1925 amend existing enactments, particularly those dealing with local self-government. The amendments are for the most part of merely local interest.

8. BURMA.

Acts passed—12.

Rent.—Act No. 1 extends the provisions of the Rangoon Rent Act, 1920, up to the end of 1926. Act No. 9 repeals and re-enacts the Act of 1920 with certain amendments. In the Bill as introduced it was

proposed that it should have a duration of five years, but in its passage through committee the date of expiry of the law was maintained at December 31, 1926.

Universities.—The object of Act No. 7 is to provide for the constitution and powers of a Board of Trustees for the erection of the buildings required by the University of Rangoon.

The other measures passed in 1925 amend existing enactments of local extent and interest.

9. BIHAR AND ORISSA.

Acts passed—4.

President's Salary.—Act No. 1 fixes the salary of the elected President of the provincial Legislative Council at Rs.24,000 per annum. The Act also contains a section forbidding the President to undertake any other duties for remuneration.

Local Fund Audit.—Act No. 2 enables the local Government to direct that the accounts of any local authority shall be subject to audit, defines the powers of auditors and provides penalties for failure to comply with their demands.

The other two Acts make amendments in enactments of purely local application.

10. CENTRAL PROVINCES.

Act passed—1.

President's Salary.—The only Act of the year fixes the salary of the elected President of the Legislative Council at Rs.10,000 per annum. The Act contains an additional provision on the lines of those embodied in the enactments fixing the salaries of the Presidents of the Legislative Assembly and the Bihar and Orissa Legislative Council.

11. ASSAM.

Acts passed—3.

Municipalities.—Act No. 1 makes unimportant amendments in the law relating to municipalities.

Stamps and Court Fees.—In 1922 the local Council passed two Acts enhancing the stamp duties and court fees payable in Assam. These two Acts had a duration of three years. Acts Nos. 2 and 3 extend the duration of these two enactments for a further period of three years.

12. COORG.

A Legislative Council was constituted for the Province of Coorg early in 1924, but by the end of 1925 it had not passed any enactments.

13. REGULATIONS UNDER S. 71 OF THE GOVERNMENT OF INDIA ACT.

Regulations made—7.

Criminal Law.—Regulation 1 repeals the Upper Burma Criminal Justice Regulation, 1892, which laid down modifications of the ordinary Criminal Code in its application to certain frontier districts of Burma. The new Regulation applies in the first instance to a small number of

frontier districts, and the modifications of the Criminal Code which applies to these districts are less far-reaching than before.

Regulations 2 and 3 extend for a further period of three years the duration of the North-west Frontier Province Security Regulation, 1922, and the British Baluchistan Security Regulation, 1922.

Regulation No. 5 amends the Bengal Eastern Frontier Regulation, 1873. It had been found that the penalties provided for contravening that Regulation were insufficient to deter persons from entering Tibet from India without authority. The penalties are therefore enhanced by this amending Regulation, which at the same time authorizes the confiscation of articles, the acquisition of which was frequently the inducement to unauthorized entry into Tibet from India.

Regulation No. 6 enacts a complete code for the administration of municipalities in the provinces of Ajmer-Merwara. It contains no particular features of interest, being based entirely on Punjab Act No. 3 of 1911 and United Provinces Act No. 2 of 1916.

14. ORDINANCES UNDER S. 72 OF THE GOVERNMENT OF INDIA ACT.

The only Ordinance promulgated was one to suspend for three months, with effect from the first day of December 1925, the levy and collection of the cotton excise duty under the Cotton Duties Act, 1896. The annual Finance Act of 1896 repealed the Cotton Duties Act altogether, with effect from the first day of March in that year.

VIII. EASTERN COLONIES.

1. CEYLON.

[*Contributed by* L. MAARTENSZ, ESQ., *District Judge, Colombo.*]

Disabled Men.—The Disabled Ceylon Men's Fund Ordinance (No. 1) dissolves the corporation created by Ordinance 31 of 1916.

All the assets of the corporation are transferred to Government and the Government undertakes the payment of the pensions and allowances allotted by the corporation.

The Governor in Executive Council may order that the payment of the whole or part of an allowance shall be discontinued either absolutely or for a period.

Pearl Fisheries.—Ordinance No. 2 consolidates the various ordinances relating to pearl fisheries.

The definition of pearl oysters and the provision vesting the right of fishing for or taking pearl oysters in the Crown are re-enacted.

Power is reserved to the Governor in Executive Council to declare by notification in the *Gazette* that a pearl fishery shall be held on a pearl bank between the dates mentioned in the notification.

Tea.—The Tea Research Ordinance (No. 12) creates a Tea Research Institute for the purpose of research into and investigation of all problems and matters relating to tea, for the publication of information and for the education of students in tea research.

The Board consists of four *ex-officio* members : the Director of Agriculture, the Colonial Treasurer, the Chairman of the Planters' Association and the Chairman of the Ceylon Estates Proprietary Association ; and

eight nominated members, three each nominated by the two associations mentioned above, one nominated by the Low Country Products Association, and one by the Governor.

An income is provided for by the imposition of an export duty of ten cents on every 100 lb. of tea and in proportion for any less weight.

Trade Marks.—Ordinance No. 15 consolidates the law relating to trade marks and brings it into conformity with the Trade Marks Act, 1905, as amended by the Acts of 1914, 1915 and 1919.

The Ordinance follows the Trade Marks Act, 1905, in the arrangement of its sections and its subdivisions into parts, with such alterations as are required by the incorporation of the provisions of the Act of 1919.

S. 4 of the Ordinance amalgamates the provisions of the Trade Marks Acts of 1905 and 1914 so far as they relate to the form of the register. The provisions of the Trade Marks Act of 1919 are incorporated in ss. 67 to 70.

S. 9 enlarges the definition of a registrable trade mark, following in that respect the corresponding provisions of the English Act.

S. 11 of the Ordinance extends the power of the registrar to refuse to register a trade mark which is calculated to deceive or which is likely to offend the religious or racial feelings of a community.

Subsection 3 of s. 12 makes provision for an appeal to Court.

Under s. 15 the registrar of Court may require an applicant to disclaim the right to exclusive use of any part or parts of a trade mark.

S. 21 allows of the registration of a trade mark in case of honest concurrent user or of any other special circumstance.

Ss. 24 and 25 provide for the registration of associated and combined trade marks.

By s. 37 a trade mark may be removed from the register in case of non-user.

S. 38 deals with a case of a word which, having been applied in the first instance to a patented article, has during the currency of the patent become the common designation of the article. In such a case the right to an exclusive user is subject to the conditions laid down in the section, taken away from the person who has registered such designation as a trade mark.

S. 65 (2) prohibits the unauthorized use of the arms of the Ceylon Government in connexion with any trade, business, calling or profession.

Evidence.—No. 16 adds two subsections to s. 120 of the principal Ordinance numbered 4 and 5. The existing subsection 4 is renumbered 6.

Under subsection 3 of the principal Ordinance in criminal proceedings against a husband or wife for any bodily injury or violence inflicted on a wife or husband, such wife or husband is a competent and compellable witness. The new subsection 4 extends this section to cases of attempts to cause bodily injury or violence.

Subsection 5 makes a husband or wife a compellable and competent witness in a charge of bigamy against his wife or husband.

The other ordinances introduced amendments of no importance.

2. HONG-KONG.

[*Contributed by* C. G. Alabaster, Esq., K.C., O.B.E.]

Ordinances passed—16.

Dangerous Goods.—The principal Ordinance No. 1 of 1873 had authorized the granting of search warrants by magistrates after informa-

tion on oath. This amending Ordinance (No. 2) repeals this provision and makes it lawful for any police officer authorized by the Captain Superintendent of Police in that behalf forcibly to enter and search any place or ship (not being or having the status of a ship-of-war) in which such police officer had reasonable ground for suspecting dangerous goods liable to seizure were contained.

Rents Restriction.—The Rents Ordinance, 1922, is extended by No. 8 for another year, but landlords are permitted to increase the standard rent to an extent not exceeding 15 per cent.

Telephones.—By No. 9 the Government grants to a company the sole right to supply and operate public telephonic communication within the colony for the period of fifty years commencing from July 1, 1925.

Stock Exchange Settlement Day.—The ordinary monthly settlement day of the local stock exchanges would have fallen on June 23, and much "forward business" had been done for settlement on that day. In consequence of the general strike, which had started a day or two before and which was the prelude to the boycott and other troubles to which the colony was subsequently subjected, the exchanges did not open for business on the 23rd. By the June Settlement Ordinance (No. 11) July 23 was substituted and contracts for June 23 were validated and extended for a month subject to payment of 8 per cent. interest.

Registration of United Kingdom Patents.—By No. 13 the grantees of patents in the United Kingdom are given three years to apply for registration of their patents in Hong-Kong. Applications have to be accompanied by a certified copy of the specifications (including drawings, if any) and a certificate of the Comptroller-General of the United Kingdom Patent Office giving full particulars of the issue of the patent. The certificate of registration confers privileges and rights as though the patent had been issued in the United Kingdom with an extension to Hong-Kong. The Patents Ordinance, 1892, was repealed.

Oyster Beds.—An amendment of the Larceny Ordinance, 1865, was passed protecting oyster beds by an enactment (No. 14) on the lines of 24 & 25 Vict. c. 96, s. 26.

3. FEDERATED MALAY STATES.

[*Contributed by* A. DE MELLO, ESQ.]

Enactments passed—26.

The most noteworthy enactment of this year is that relating to domestic service.

Female Domestic Servants.—Much criticism had been evoked in the past five years by the allegation that in Hong-Kong and other Chinese populated parts of the British Empire women-servants had been purchased (*mui-tsai*), and a right of control and disposition exercised over them by their employers. Accordingly, this enactment (No. 22) (like its sister-enactment, Ordinance No. 23 of 1925 of the Straits Settlements) was passed with a view to removing any suspicion against the Government of countenancing such transactions; it does not interfere with the customs inherent in the Chinese race, but prohibits (i) the employment in domestic service of girls under the age of ten years (s. 2); (ii) the purchase of girls whether under the guise of adoption or not, to be so employed (s. 4). The powers conferred upon the Protector of Chinese in

such cases are analogous to those arising under ss. 9 and 10 of the Women and Girls' Protection Enactment, 1914.

S. 6 provides for the compulsory supply by the employer of food, clothes, wages, and medical attendance to a female domestic servant under the age of eighteen years, and enables a minimum rate of wages, if necessity arises, to be fixed by Government.

Women and Girls.—In view of the new Female Domestic Servants Enactment just noticed, the present enactment (No. 21) amends the Women and Girls Enactment of 1914 as follows:

Providing specifically (ss. 2, 5 and 7) for *mui-tsai* (*vide* Enactment No. 22, *supra*).

Raising the age-limit (s. 3) from twenty to twenty-one years, the British Government having subscribed to the White Slave Traffic Convention of November 4, 1921.

Prohibiting (s. 4) the traffic in women and girls irrespective of their age, but with a saving for *bona fide* acts of adoption or marriage, in conformity with certain Asiatic customs.

Conferring upon the Protector of Chinese (s. 8) summary power to arrest any person reasonably suspected of being liable to prosecution, and to seize and detain books and documents evidencing offences against the enactment.

Enabling the transfer of a protected girl from one home to another without the necessity of the present complicated formalities, involving the obtaining of the consent of two Residents.

Permitting legal proceedings relative to offences in respect of a girl under the age of *sixteen* (and not only, as hitherto, *ten* years) to be heard *in camera*.

A similar Ordinance (No. 24 of 1925) was passed concurrently in the Straits Settlements.

4. STRAITS SETTLEMENTS.

[*Contributed by* A. DE MELLO, ESQ.]

Ordinances passed—27.

The more important Ordinances of the year are those relating to Deleterious Drugs (No. 6), corresponding to the Federated Malay States Enactment No. 10 of 1925, Female Domestic Servants Ordinance (No. 23), corresponding to the Federated Malay States Enactment No. 22 of 1925,[1] and Women and Girls (No. 24), corresponding to the Federated Malay States Enactment No. 21 of 1925.[2]

5. MAURITIUS.

[*Contributed by* H. W. PRICHARD, ESQ., *Procureur-General.*]

Forty-seven Ordinances were passed by the Council of Government and assented to by the Governor during the year 1925, of which the following are the most important, deserving special mention:

Merchant Shipping (Wireless Telegraphy).—No. 2 prescribes the installation of wireless telegraphy on board British ships registered in Mauritius.

Town Boards Pensions.—No. 8 provides for the grant of pensions and gratuities to officers or servants of Town Boards.

Animal Diseases (Consolidation).—No. 9 regulates the importation

[1] See p. 162. [2] See p. 163.

of animals into the colony with the view of protecting the island from the introduction of animal diseases.

Emigration.—No. 27 regulates the emigration of skilled labour from Mauritius with the view of preventing emigrants being left destitute in a foreign country and having to be repatriated at the expense of the colony.

Deceased Public Officers' Salary.—No. 30 increases the amount of the gratuities payable on the death of a public officer.

Pensions.—No. 31 provides for the grant of a gratuity with a reduced pension on retirement of a public officer.

Savings Bank.—No. 40 creates a branch of the Savings Bank at Rodrigues and extends to that dependency certain provisions of the Savings Bank Ordinance, 1898. This Ordinance also provides for the increase of deposits in the Savings Bank.

Customs.—No. 46 consolidates and amends the Customs law. This Ordinance embodies all the necessary legal machinery for the protection of the revenue and the administration of the Customs Department under the demands of modern trade conditions.

Public Health.—No. 47 consolidates and brings up to date the law of Public Health (apart from Quarantine).

6. STATE OF NORTH BORNEO.

[*Contributed by* C. F. C. Macaskie, Esq., *Legal Adviser.*]

Only one Ordinance was passed in 1925, namely:

Cruelty to Animals.—The Cruelty to Animals (Prevention) Ordinance is modelled closely on similar legislation in the Federated Malay States and presents no novel features. It replaces less comprehensive provisions.

No Rules of general interest were passed.

7. SEYCHELLES.

[It is hoped to publish this Summary in the next *Review*.]

IX. WEST AFRICA.

1. GAMBIA.

[It is hoped to publish this Summary in the next *Review*.]

2. GOLD COAST COLONY.

[*Contributed by* R. W. H. Wilkinson, Esq., *Attorney-General.*]

During the year 1925 twenty-six Ordinances were passed by the Legislative Council, of which the following are those of more general interest:

Motor Traffic.—No. 1 consolidates, revises and expands the previous law relating to motor traffic. Certain additional provisions, adapted from the corresponding legislation of other countries, such as Nigeria and Malta, are incorporated in this Ordinance. The general effect of the technical amendments made, together with the new motor-traffic regulations made under the Ordinance, is to afford greater facilities to commercial traffic and to reduce the cost of commercial motor transport.

Cinematograph Exhibitions.—No. 2 repeals the former Cinematograph

Ordinance (c. 161), and substitutes a more satisfactory enactment. The Ordinance is not designed to effect any radical alteration of the law; but a leading feature of it is that it discriminates clearly between the restrictions relating to the premises in which a cinematograph exhibition is given, on the one hand, and the restrictions relating to the exhibition of particular films on the other hand.

Immigration Restriction.—No. 9 consolidates and amends the previous law relating to immigration. It is based on the corresponding Ordinance of Nigeria (c. 157 of the Nigerian laws). Save in the case of persons who by s. 4 are excepted from the operation of the Ordinance, this enactment renders far more rigid than heretofore the restrictions imposed on immigration.

S. 12 provides for the deportation of prohibited immigrants; and s. 14 defines the cases in which the owners and masters of ships, and employers, are made responsible for the expenses incurred in connexion with the transport, maintenance and deportation of prohibited immigrants.

Aliens.—No. 10 is based on the corresponding Ordinance of Nigeria (c. 158 of the Nigerian laws). This Ordinance empowers the Governor in Council to order the deportation of any alien recommended by a Court, on his conviction, for deportation, and also of any other alien who in the opinion of the Governor in Council ought in the public interest to be deported.

Concessions.—No. 14 amends the principal Ordinance by subjecting to the control of the Forestry Department the exercise of rights claimed with respect to timber and trees under concessions affecting land within prescribed areas; but this provision does not apply to concessions validated prior to the date of the passing of the Ordinance.

Mining Health Areas.—No. 19 was passed mainly as a result of the recommendations made by Professor Sir William Simpson in his report on sanitary conditions in Gold Coast mining areas in 1924. The Ordinance imposes strict requirements with respect to the employment and housing of native labourers employed on the mines; the object in view being to reduce the mortality rate and generally to improve the conditions of life. For this purpose the Ordinance imposes considerable financial responsibilities on the mining companies.

Town Planning.—No. 20 was framed in consultation with one of the Legal Advisers to the Ministry of Health in London; and parts of it are based on the corresponding Ordinance of Palestine.

It establishes a Central Town Planning Board, and empowers the Governor in Council, on the advice of the Board, to declare town-planning areas.

In towns possessing municipal institutions the municipal authority is made responsible for executing the town-planning schemes; while in other areas the schemes will be executed under the direction of the Board. The Board will, however, delegate at least a portion of the work to a committee.

The Ordinance includes provision on modern principles for the assessment and payment of compensation to parties injuriously affected by a town-planning scheme; and under the Ordinance certain questions are made referable to the arbitration of a single arbitrator. If the parties cannot agree on an arbitrator, the Chief Justice will nominate one.

Education.—No. 21 repeals and amends the previous law with respect to education.

The principal objects of this Ordinance are :

(*a*) To improve the status of teachers ;

(*b*) To place education in the colony on a sounder basis than that on which it previously stood ;

(*c*) To give effect to recommendations which have been made from time to time by various committees appointed by the Governor to consider and report on matters relating to and connected with education ; and

(*d*) To reconstitute the Board of Education with an unofficial majority.

S. 3 reconstitutes the Board with an unofficial majority.

Ss. 4 and 5 give power to form and keep a Register of Teachers, and prohibit any persons from teaching in schools if they are not on the Register of Teachers.

S. 6 prohibits the employment of teachers at a rate of salary lower than that prescribed.

S. 7 provides for the employment of itinerant teachers, when such employment is deemed necessary.

S. 13 empowers the Director of Education to make the continuance of grants-in-aid to two or more schools conditional on their union, if such union will conduce to greater efficiency.

S. 14 enables higher grants to be awarded to schools opening and working in special areas.

S. 15 prohibits the taking of fees, emoluments or gratuities of any kind in any school which does not satisfy the requirements of this Ordinance.

Births, Deaths and Burials.—No. 26 repeals, and somewhat elaborately amends, the law on this subject.

The principal changes effected by this Ordinance are the following :

(1) All births and deaths of non-natives to be compulsorily registered ;

(2) All births and deaths of Africans in certain areas (to be defined) to be compulsorily registered ;

(3) The free issue of a birth certificate on registration of a birth ;

(4) The registration of death, and the issue of the burial certificate, at the place of death only ;

(5) Provision is made to enable not-compulsorily-registered births and deaths of Africans to be registered, if so desired ;

(6) The duty to bury a corpse is imposed on certain specified persons ; and

(7) Express provision is made with respect to cremations.

(i) ASHANTI.

During the year 1925 thirteen Ordinances were enacted with respect to Ashanti, certain of which were enacted for the purpose of applying to Ashanti certain Ordinances of the Gold Coast Colony.

Special mention may be made of the following Ordinances :

Administration.—The Ashanti Administration Further Amendment Ordinance (No. 2) and the Ashanti Administration Fifth Further Amendment Ordinance (No. 8) contain statutory declarations as to the ownership of certain lands, premises and buildings in Ashanti held or occupied by Government. These are declared to be vested in His Majesty the King.

Kumasi Public Health Board.—No. 5 establishes a Public Health Board charged with the conduct of municipal affairs in Kumasi. This Ordinance

is in the main an adaptation to local conditions of parts of the Municipal Corporations Ordinance (No. 29 of 1924) of the Gold Coast Colony; but the control retained by Government over the activities of the Board is closer than that to be exercised by Government over a municipal council in the Gold Coast Colony.

(ii) THE NORTHERN TERRITORIES OF THE GOLD COAST.

During the year 1925 seven Ordinances were enacted with respect to the Northern Territories of the Gold Coast, certain of which were enacted for the purpose of applying to the Protectorate certain Ordinances of the Gold Coast Colony.

Special mention may be made of the following Ordinances:

Importation of Live Stock.—No. 5 imposes certain restrictions on the importation of livestock into the Protectorate.

Live stock are only allowed to enter at prescribed places of entry; and they are made subject to quarantine. Moreover, live stock passing through the Protectorate southwards must travel along prescribed routes.

Administration. — The Northern Territories Administration Fifth Further Amendment Ordinance (No. 7) provides that patents and trade marks which are protected in the Gold Coast Colony shall enjoy similar protection in the Protectorate.

(iii) THE BRITISH SPHERE OF TOGOLAND.

During the year 1925 only one Ordinance was enacted with respect to the British Sphere of Togoland, namely, the Liquor Trade Ascertainment Ordinance (No. 1); and this Ordinance applies only to the Southern Section of the British Sphere of Togoland. The Ordinance provides that licensees under the Spirits Licence Ordinance and under the Wine and Beer Licence Ordinance shall keep a true record of all spirits, wine and beer bought and sold by them. This provision is made for the purpose of rendering available the information on the subject which is required annually by the Permanent Mandates Commission of the League of Nations.

3. NIGERIA.

[*Contributed by* DONALD KINGDON, ESQ., *Attorney-General.*]

1924.

Ordinances passed—36.

British Cameroons.—No. 3 applies to the British Cameroons the greater part of the Laws of Nigeria with the necessary modifications. This Ordinance has since been recast.

Liquor.—No. 21 varies the definition of "trade spirits."

Ex-enemy Immoveable Property.—No. 22 legalizes the acquisition by ex-enemy nationals or corporations under ex-enemy control of titles in ex-enemy immoveable property in the British Cameroons.

Niger Transit.—No. 24 provides for the passing of vessels and goods in transit between the sea and places beyond Nigeria *via* the River Niger, or in the case of goods partly *via* the River Niger and partly by land.

Wild Animals.—No. 28 varies the provisions of the Wild Animals' Preservation Ordinance especially as regards ivory and rhinoceros horn.

German Missions.—No. 29 makes the necessary provision for giving

effect to Art. 438 of the Treaty of Peace with Germany as to the property of Christian religious missions formerly maintained by Germans in the British Cameroons.

Immigration Restrictions.—No. 31 makes some important alterations in the law relating to immigration, in particular bringing the regulations as to passport into line with corresponding regulations in the Empire and extending to natives a number of the restrictions upon immigration.

Land.—No. 31 makes provision enabling trustees of corporate bodies to be appointed and to have perpetual succession and to hold land.

Widows' and Orphans' Pensions. — No. 35 grants permission to contributors to make a lump-sum contribution or increase their contributions within a prescribed period.

Land Registration.—No. 36 repeals and replaces with amplifications the law relating to land registration, simplifying, in particular, the system of registration of instruments affecting land and also the methods of proving an instrument.

1925.

Ordinances passed—20.

British Cameroons.—No. 1 repeals Ordinance No. 3 of 1924 and practically re-enacts that Ordinance with the omission of the provision that all Nigerian Ordinances enacted subsequently to February 28, 1924, shall apply to the British Cameroons. It is therefore now necessary in each Ordinance and in subsidiary legislation to state definitely whether the enactment is in force in the British Cameroons or not.

Patents.—No. 6 repeals the law relating to registration of patents and provides for the registration in Nigeria of all patents granted in the United Kingdom, provided that application for registration is made within three years from the date of issue of the patent. The rights conferred in Nigeria date from the date of the patent in the United Kingdom and continue in force so long as the patent remains in force in the United Kingdom.

Laws—Revised Edition.—No. 8 provides that the Attorney-General shall prepare an annual supplement to the Laws of Nigeria, in the preparation of which he shall have the powers conferred on the Commissioner by s. 4 of the Revised Edition of the Laws Ordinance, 1923.

Deposed Chiefs.—No. 9 authorizes the Governor to order that any deposed chief shall within a specified time leave the area over which he exercised jurisdiction or influence and other specified parts of Nigeria adjacent thereto. Disobedience to such an order may entail a term of imprisonment and the deportation of the chief to such part of Nigeria as the Governor may direct.

German Missions.—No. 10 repeals and replaces with amplifications Ordinance No. 29 of 1924.

Police.—No. 17 gives a superior police officer the power to suspend an assistant superintendent or an inspector charged with a criminal offence, and enlarges the power to grant bail by conferring it on police officers not below the rank of corporal.

Liquor.—No. 18 provides for quarterly sessions of a licensing board.

4. SIERRA LEONE.

[It is hoped to publish this Summary in the next *Review*.]

X. EAST AFRICA.

1. KENYA.

[*Contributed by* P. A. McElwaine, Esq., *Senior Crown Counsel.*]

Thirty-two Ordinances were passed. The principal Ordinances of public interest are:

Non-Native Poll-tax.—Ordinance No. 1 provides that the poll-tax payable by a non-native shall be doubled if the tax is not paid within three months of the expiration of the period in which the tax is due to be paid.

Mining.—Ordinance No. 3 repeals the Mining Ordinance, 1912, and the Mining (Amendment) Ordinance, 1915.

The administration of the Ordinance is in the Commissioner of Mines. All minerals are vested in the Crown by virtue of the Crown Lands Ordinance. The Mining Ordinance forbids prospecting and mining without a licence. A prospecting licence costs £1 and is in force for one year. Claims may be pegged and must be registered within thirty days. Development must be done. Mining leases are provided for, the area varying from 20 acres for gold to 640 acres for coal. The term does not exceed ten years. There is a royalty of 2½ per cent. on gold. There are provisions for compensation of private landholders for disturbance. A mining lease will not be granted over private land nor any claims be pegged except with the consent of the owner. Diversion and pollution of water are prohibited. Mines are liable to inspection.

Master and Servant.—Ordinance No. 4 amends the existing Ordinance on Master and Servants. It legalizes a "contract" under which the servant agrees to work for the employer for thirty days in succession or otherwise at the election of the employer, but the total period of the contract shall not extend beyond forty-two days from the making thereof. The employer is bound to provide work for thirty days and to provide food for the servant during the continuance of the contract.

A special contract in writing may be made for a period not exceeding one year for a definite number of days' work not being less than five-sevenths of the total number of days of the duration of the contract. Food must be supplied.

Resident Native Labourers.—Ordinance No. 5 regulates the residence of squatters on farms.

A native is forbidden to reside on a farm unless he is (*a*) the occupier or a member of a family the head of which has entered into a contract under the Ordinance or is in actual employment as a domestic servant or artisan; (*b*) employed on the farm under a contract made under the Master and Servants Ordinance; (*c*) old and infirm and is related to a family lawfully residing on the farm; or (*d*) permitted by the occupier and a magistrate to reside there. The contract made under the Ordinance must be in writing and attested by a magistrate. It must be for a term of not less than one year or more than three. The rate of wages is set out in the contract. Not less than 180 days must be provided each year. A piece of land is allotted to the native for cultivation and, when agreed upon, for grazing. The occupier provides building material for the native's huts. If the contract is for more than a year it can be terminated on six months' notice. It can only be terminated before the expiration of a year with the consent of a magistrate. On the expiration of the contract the native and his family may remove his crops

or be compensated by the occupier in money. The magistrate may refuse to attest the contract if, in his opinion, the rate of wages is not a fair remuneration. Registers of natives and of their cattle must be kept by the occupier of the farm. No rent may be charged in money or in kind for the portion of land allotted to the native for cultivation and grazing. A native may reside on a farm belonging to a mission without a contract, provided he receives technical, literary or theological instruction for not less than 180 days in a year provided the instruction is under proper control.

Penalties are provided for breaches of contract by either the native or the occupier.

Public Trustee.—Ordinance No. 7 provides for the appointment of a Public Trustee to whom the deaths of all persons dying outside a native reserve must be reported. The Public Trustee is to cause inquiries to be made as to the property of deceased, and if there are no executors or if probate or administration is not taken out within three months of the death the Public Trustee may apply to the Court for an order authorizing him to administer the estate. Fourteen days' notice of such application must be given to the next of kin and executors (if any) known to the Public Trustee to be resident in the Colony. Notwithstanding such order probate or administration may be granted to another person. The Public Trustee may take charge of the property of a person resident outside the Colony if that person's agent dies without leaving a responsible person to look after the property. Disputes in respect of the estate are decided by the Court. If the value of the estate does not exceed £50 the dispute may be settled by the Public Trustee. Moveable property is to be converted into money unless the Court otherwise orders. The Public Trustee shall advertise for creditors of estates administered by him and shall pay proved debts. The Public Trustee may accept any trust not involving the management of a business and not being a trust under a scheme of arrangement for the benefit of creditors nor of an estate known by him to be insolvent. Legacies payable to an infant or lunatic may, with the consent of the Public Trustee, be transferred to the Public Trustee.

The Public Trustee does not give bonds or security. He is a corporation sole with perpetual succession.

In proceedings by or against the Public Trustee he may employ an advocate who shall be paid out of the estate.

Neither the Public Trustee nor his agent shall be personally liable for any act done by him *bona fide* in the supposed and intended performance of their duties unless it is shown that the act was done illegally and with wilful or gross negligence. Government is liable to make good all sums for which the Public Trustee would be personally liable if he were a private trustee unless the liability was one to which the Public Trustee did not contribute and which he could not avert.

Arms and Ammunition.—Ordinance No. 8 implements the convention for the control of the trade in arms and ammunition signed at St.-Germain-en-Laye on September 10, 1919. Exportation of arms of war is prohibited and exportation of firearms to a prohibited area is forbidden. The whole of the continent of Africa except Algeria, Libya and the Union of South Africa, certain islands off the African coast, and Transcaucasia, Persia, Gwadar, Arabia and such continental parts of Asia as were included in the Turkish Empire on August 4, 1914, are prohibited areas.

Licences to export arms of war for the use of the Government of any of His Majesty's Dominions, Protectorates or mandated territories may be given.

Arms may only be imported under a licence and at prescribed places. They must be deposited in a warehouse and must be registered before withdrawal and a permit to withdraw obtained. All arms already in the Colony must be registered.

Licences to possess firearms cost 5*s*. If the licensed arm is lost, the licensee must report the fact.

No one may sell a firearm without a permit. A gunsmith must be licensed. No ship of under 500 tons burden may bring arms into the Colony.

Customs.—Ordinance No. 11 permits samples and specimens to be imported by merchants and commercial travellers free of duty subject to conditions.

Vagrancy.—Ordinance No. 17 adds the fortune-telling provisions of s. 4 of the Vagrancy Act, 1824, to the Vagrancy Ordinance, 1920.

Agricultural Produce Export.—Ordinance No. 19 provides for blockstacking of agricultural produce for export. The owner of produce which is blockstacked is entitled to withdraw the same quantity and quality of goods as he has placed in blockstack, but he is not entitled to the identical goods which he placed in the blockstacking warehouse.

Liquor.—Ordinance No. 20 forbids a person licensed for the sale of intoxicating liquor to sell methylated spirits.

Methylated Spirits.—Ordinance No. 21 forbids any person to sell methylated spirits without a licence. A licence costs 2*s*. A person licensed to sell intoxicating liquor cannot be licensed to sell methylated spirits.

Witchcraft.—By Ordinance No. 23 any person who holds himself out as a witch-doctor able to cause fear, annoyance or injury to another in mind, person or property, or who pretends to exercise any kind of supernatural power, witchcraft, sorcery or enchantment calculated to cause such fear, annoyance or injury, shall be guilty of an offence and shall be liable to imprisonment of either description for a term not exceeding five years.

Any person professing a knowledge of so-called witchcraft or the use of charms, who shall advise any person applying to him how to bewitch or injure persons, animals or other property, or who shall supply any person with any article purporting to be a means of witchcraft, shall be guilty of an offence and shall be liable to imprisonment of either description for a term not exceeding ten years.

Any person who of his pretended knowledge of so-called witchcraft shall with intent to injure use or assist to use or cause to be put into operation such means or processes as may be calculated to cause fear, annoyance or injury in mind, person or property to any person shall be guilty of an offence and shall be liable to the like punishment as in the preceding section provided.

Any person who is in possession of a charm or other article usually used in the exercise of witchcraft, sorcery or enchantment for the purpose of causing fear, annoyance or injury to another in mind, person or property and who fails to show reasonable cause why he should retain any such charm or other article in his possession shall be guilty of an offence and shall be liable to imprisonment of either description for a term not

exceeding one year or to a fine not exceeding 1,000s. or to both and the charm or other article shall be forfeited and destroyed or otherwise dealt with in such a way as the magistrate may direct.

It is a crime punishable with fine of £25 or five years' imprisonment to accuse any person of practising witchcraft unless the accusation is made to a District Commissioner or other person in authority. A person is liable to similar punishment who attempts to discover crimes by means of any non-natural means.

A District Commissioner may order to reside in a named locality any person who is suspected of practising witchcraft and who causes or is likely to cause fear, annoyance or injury in mind, person or property to any other person by means of pretended witchcraft.

Nothing in the Ordinance shall effect the liability to the death-penalty of any person who by the use of witchcraft or under a pretence of trial by ordeal or of using any lot or charm commits wilful murder.

An offender under the Ordinance may be deported.

Shop Hours.—Ordinance No. 24 follows the lines of the English Act. No shop assistant shall be employed in or about a shop for more than fifty hours including meal-times in any one week or more than nine hours in any one day except for stock-taking. Provision is made for a weekly half-holiday.

Detention Camps.—By Ordinance No. 25 a native convicted of an offence against certain quasi-criminal Ordinances may, instead of being fined or imprisoned, be sent to a detention camp. A person convicted of an offence against the discipline of a detention camp may be committed to prison to undergo the remainder of his sentence.

Patents and Designs.—By Ordinance No. 26 a grantee of a patent in the United Kingdom may apply within three years from the date of the issue of the patent to have such patent registered in Kenya. Provision is made for assignments and for inspection of registered designs.

Arbitration.—By Ordinance No. 28 court proceedings in respect of matters to be referred to arbitration under commercial agreements may be stayed, when the submission to arbitration was made in pursuance of an agreement to which the protocol on arbitration signed on behalf of His Majesty at a meeting of the Assembly of the League of Nations on September 24, 1923, applies.

2. NYASALAND PROTECTORATE.

[*Contributed by* P. B. PETRIDES, ESQ., *Attorney-General.*]

During the year 1925 eight Ordinances were passed, of which the following are the more important:

Licensing.—No. 1 amends the Licensing Ordinance and defines "agent of a foreign firm" who by a subsequent Proclamation under the Licensing Ordinance is required to take out a trading licence. The object of the amendment is to place firms that send representatives to the Protectorate to solicit orders for goods to be delivered from outside the Protectorate on the same footing as regards the necessity of taking out a trading licence as merchants residing in the Protectorate. The amending Ordinance provides that half-yearly trading licences may be granted.

Income-tax.—No. 2 repeals the previous Income-tax Ordinance and provides for the imposition of an income-tax and regulates the collection thereof.

Time.—No. 3 amends the Interpretation and General Clauses Ordinance so that where any expression of time occurs in any law, deed or other legal instrument the time referred to shall mean the time two hours in advance of Greenwich mean time. The time thus adopted is the standard time of South Africa.

Grass Fires.—No. 6 was passed with the object of preventing the reckless or careless use of grass fires by which in the past considerable damage has been caused to trees and other property. The Ordinance permits the occupier of land to set fire to crops, grass, etc., thereon which are the property of such occupier provided that he prevents the fire from extending beyond the boundary of land occupied by him or from causing damage to the property of any other person. If he fails to do either of these things, he is liable to a penalty under this Ordinance.

Any person who, without the consent of the owner or occupier of land, wilfully or negligently burns any crop, grass, etc., thereon or leaves any fire which he has lighted before it is thoroughly extinguished is liable on conviction to a fine of £10 or two months' imprisonment.

Nothing in the Ordinance exempts a person from prosecution under any other law or from civil liability.

Persons committing an offence under this Ordinance are liable to be summarily arrested by police and forest officers or by the occupier of the land on which the offence occurs or his servant.

The Ordinance applies only to such parts of the Protectorate and to such extent as the Governor may by Proclamation direct.

3. TANGANYIKA TERRITORY.

[*Contributed by* F. A. Moseley, Esq., *Acting Solicitor-General.*]

Ordinances enacted—8.

Legal Instruments.—The Preparation of Legal Instruments (Restriction) Ordinance (No. 1) restricts the preparation for a fee of legal instruments (with a few exceptions) to advocates of the High Court.

Whipping.—The Whipping Ordinance (No. 3) vests in the High Court instead of the Governor the power to sanction a sentence of whipping exceeding twelve strokes, and prescribes the mode of whipping.

Ex-Enemies.—The Ex-Enemies (Land Holding) Repeal of Restrictions Ordinance (No. 7) removes the restrictions upon the holding of land by persons falling within the class of former enemy aliens.

Post Office Savings Banks.—The Post Office Savings Bank Ordinance (No. 8), in the interests of small investors, provides, through the agency of the Post Office, facilities for the investment of savings.

The remaining enactments are amending Ordinances of purely local interest.

4. UGANDA.

[*Contributed by* S. S. Abrahams, Esq., *Attorney-General.*]

Nineteen Ordinances were enacted in 1925, of which the most important were the following:

Erection of Wires.—No. 1 prohibits the erection or maintenance of any wire under, in, upon, over, along or across any public place without licence from the Governor. Every licence may carry conditions governing its issue and such conditions may be added to or varied by the

Governor. The issue of the licence and the fulfilment of the conditions do not exonerate the licensee from proceedings for damages or for nuisance caused by the erection of the wires.

Vagrancy.—No. 4 substitutes a larger definition of "vagrant" for that contained in the principal Ordinance. The definition now includes "any native of the Protectorate found without employment and fixed abode and unable to render a satisfactory account of himself at such distance from his ordinary place of abode as to make it impossible for him to proceed there without assistance." This definition is designed to enable the authorities to charge with vagrancy that numerous class of native which swarms into townships for no good reason and can probably show on any given occasion sufficient means of temporary subsistence without being in permanent employment. The cost of transporting such persons back to their districts is thus discharged by the amounts earned during their confinement in prison.

Liquor.—No. 6 makes it an offence for any native to acquire, attempt to acquire or to be in possession of any liquor other than liquor properly supplied to him for medicinal purposes.

Criminal Law.—No. 9 remedies a defect in the Criminal Law. The Indian Penal Code as applied to the Protectorate did not include c. VA, which defines and punishes the offence of criminal conspiracy. This Ordinance adds that chapter.

Police and Prisons Officers (Gratuities).—No. 11 amalgamates for the purpose of his gratuity the service of a police or prisons officer who has served partly in the police and partly in the prisons service, whether this service has been performed wholly in Uganda or partly in Uganda and partly in any other territory in which such service is declared to count as service in Uganda.

Public Holidays.—No. 13 declares certain days to be kept as public holidays by all public offices, Government Departments and banks. Power is given to the Governor to proclaim any day to be a public holiday in addition to the days mentioned or in substitution for any of them.

Trade.—No. 17 compels the holder of a trading licence to display the licence in a conspicuous part of the store in respect of which the licence is issued.

Masters and Servants.—No. 19 amends the Masters and Servants Ordinance in respect to labour agents. This Ordinance is designed for the protection of natives recruited by labour agents to work in a district other than that of recruitment. As a condition precedent to the issue of a permit to recruit for the above-mentioned purpose the agent must produce an authorization in writing from the proposed employer setting out the terms of employment. The Provincial Commissioner, who is the official vested with the power to issue or refuse such permits, may refuse the permit if he considers the terms disadvantageous to the labourer, and if the agent refuses to modify them to his satisfaction.

5. ZANZIBAR PROTECTORATE.

[*Contributed by* A. MacL. GRIEVE, ESQ.]

During the year 1925 thirty-nine decrees were passed, of which the following are of more general interest:

Courts.—The Zanzibar Courts Amendment Decree (No. 10) and the

British Subordinate Courts Amendment Order provide for the establishment of a new type of Subordinate Court within both H.B. Majesty's and H.H. the Sultan's respective jurisdictions. The Court is composed of selected chiefs and headmen resident in the various districts in which it sits. It has power in criminal cases of a minor nature to impose a sentence of up to thirty days' imprisonment or a fine up to Rs. 50. There is an appeal to the Senior Commissioner which is final. This is an experiment with a view to stimulating local interest in self-government.

Crime.—The Penal Amendment Decree (No. 29) amends the local criminal law, which is an adaptation of the Indian Penal Code, by providing that any person found by night in possession of a dangerous weapon with intent to commit housebreaking or with having in his possession by night without lawful excuse an implement for housebreaking or with having his face disguised, his body oiled or lightly clad by night with intent to commit an offence, shall be liable to a sentence of up to two years' imprisonment. This is taken from the Larceny Act 1916, s. 28.

High Commissioner.—The Zanzibar Order in Council 1925 provides for the abolition of the office of the High Commissioner for Zanzibar usually held by the Governors of Kenya Colony. The powers of this office are in future to be exercised by the British Resident.

Procedure.—The Oaths Amendment Decree (No. 38) enacts that Hindus and Mohammedans are not to be sworn but only affirmed. This brings the law into line with Hindu and Mohammedan religious opinion, which is averse to the taking of oaths except under the most exceptional circumstances.

Public Health.—The Land Drainage Decree (No. 20) empowers the Medical Officer of Health to authorize the Public Works Department to enter any premises which he considers are facilitating the breeding of mosquitoes and carry out there any scheme of drainage approved by himself. The cost of the work is to be borne by the Government.

Vehicles.—The Vehicles and Traffic Decree (No. 12) repeals previous legislation on the subject, and is an up-to-date and comprehensive code of the whole law relating to wheeled and vehicular traffic.

6. ANGLO-EGYPTIAN SUDAN.

[*Contributed by* RICHARD WEDD, ESQ., *Advocate-General.*]

The outstanding features of the legislation in the Sudan are the introduction of company law and the revision and enlargement of the Penal Code and Criminal Procedure Code.

Continued attention to the development of cotton cultivation, which, with the opening of the Sennar Dam in July 1925, has now received further impetus, is reflected in Ordinances 2, 6 and 12 and in Regulations under the Cotton Ordinance, 1912.

The departure of the Egyptian Army from the Sudan at the close of 1924 was followed by the constitution of a Sudan Defence Force and the urgent necessity for the publication of military law to govern the newly created force. The Military Law of Egypt was accordingly adopted with necessary modifications and legalized by Ordinance No. 8.

The legislation of the year is as follows:

Taxation. — The Land Tax (Amendment) Ordinance (No. 1) gives Governors of Provinces certain discretion to modify rates of taxation.

The Taxation of Animals Ordinance (No. 9) repeals and re-enacts with amendments the Taxation of Animals Ordinances, 1901 and 1903.

The Hut and Poll-tax Ordinance (No. 18) authorizes and regulates the levying of hut and poll-tax.

The Local Taxation (Amendment) Ordinance (No. 20) amends the Local Taxation Ordinance, 1919.

The Taxation of Land and Date Trees Ordinance (No. 24) repeals and re-enacts with amendments the Land Tax Ordinance, 1899, and subsequent amending ordinances, including No. 1 of 1925.

Compensation for Inundation.—The Sennar Dam Compensation Ordinance (No. 2) provides for the award of compensation in respect of damage to property due to the raising of the level of the Blue Nile consequent upon construction of the Sennar Dam.

Companies.—No. 3 provides for the registration and winding-up of companies limited by shares.

The Ordinance is based to a large extent on the Uganda Companies Ordinance, 1923.

The Companies (Capital Duty) Ordinance (No. 4) prescribes the capital duty payable on registration or on increase of capital by companies incorporated with limited liability.

Arms.—No. 5 amends the Arms Ordinance, 1924, with regard to arms and ammunition intended for immediate export.

Cotton.—No. 6 amends the Cotton Ordinance, 1912, and gives power to control the growing of cotton in respect of quality and areas, and provides for compensation to persons affected by the restrictions imposed.

No. 12 amends the Cotton Ordinance, 1912, by giving additional powers for controlling the preparation for market and marketing of cotton.

Native Courts.—The Village Courts Ordinance (No. 7) provides for the constitution of local native courts with limited criminal and civil jurisdiction.

Military Law.—The Sudan Defence Force Ordinance (No. 8) is an Ordinance passed as a temporary measure on the formation of the Sudan Defence Force as a separate body from the Egyptian Army, and applies the military law of the Egyptian Army *mutatis mutandis* to the newly constituted defence force.

Tribute.—No. 10 repeals and re-enacts, with amendments, the Tribute Ordinance, 1901. Tribute is payable by such tribes as the Governors of Provinces may direct, subject to the approval of the Governor-General as to imposition, and subject to other control as to the method of collection.

Police.—No. 11 extends the provisions of the Police Ordinance, 1908, to include the Railway Police, recently reconstituted.

Audit.—No. 14 repeals and re-enacts with amendments the Audit Ordinance, 1921. The functions and the powers of the Audit Department, Auditor-General and Audit and Accounts Committee are defined.

Customs.—The Customs (Duty on Alcoholic Liquids) Ordinance (No. 15) reduces the duty on certain perfumery and toilet preparations containing alcohol.

Penal Code.—The new Penal Code (No. 16) repeals and re-enacts in an amended and amplified form the Penal Code (No. 11 of 1899).

Inter alia are to be noted the following new provisions:

Under s. 67 juvenile offenders may, instead of receiving sentences

prescribed by the Code, be detained in a reformatory school for a term of from two to five years.

C. VIII creates the offence of criminal conspiracy and follows ss. 120A and 120B of the Indian Penal Code added by Act VIII of 1913.

S. 228 makes it an offence for an employee engaged on work of public utility to cease work without notice.

C. XX replaces the Prevention of Cruelty to Animals Ordinance, 1905 (No. 5 of 1905).

New ss. 254 and 255 have been added to provide for cases where death is caused without intention by an act not amounting to culpable homicide.

S. 269 provides punishment for ill-treatment or neglect by any person having charge of a child.

Ss. 445–7 replace the Prevention of Drunkenness Ordinance, 1907 (No. 5 of 1907).

Criminal Procedure.—The new Code of Criminal Procedure (No. 17) repeals and re-enacts in amplified form the Code of Criminal Procedure (No. 12 of 1899).

The more noteworthy alterations are as follows:

By s. 24 powers are given to release first offenders on probation.

C. VII provides for security for keeping the peace and for good behaviour of persons after conviction of offences likely to cause a breach of the peace, or, even if there has been no conviction, when a breach of the peace is apprehended, and in the case of habitual offenders.

C. IX provides for the abatement of public nuisances.

Cc. X and XI introduce further new provisions for prevention of crime by action of the police and public.

By s. 267 additional powers for enforcing the payment of fines are introduced.

The procedure in criminal trials, formerly laid down by reference to Egyptian Military Law, is now set out at length.

Railways and Steamers.—No. 19 repeals and re-enacts in amended and consolidated form the Railways Ordinance, 1904, and the Steamers Ordinance, 1906.

Land Settlement and Registration.—No. 23 is an Ordinance repealing and re-enacting in an amended and consolidated form various Ordinances relating to title of land, registration of deeds and settlement of land and provides for the registration of title to land.

XI. SOUTH ATLANTIC.

BRITISH GUIANA.

[*Contributed by the* HON. HECTOR JOSEPHS, K.C., *Attorney-General.*]

There were 29 public and 2 private Ordinances enacted during the year. Of these the principal public Ordinances are:

Newspapers.—By this amending Ordinance (No. 4) every person who prints any paper or book whatsoever which shall be meant to be published or dispersed is required to state on the first or last leaf his name and usual place of abode or business. The Ordinance does not extend to the impressions of any engraving or to the printing by letterpress of the name and address or business or profession of any person and the articles in which he deals or to any paper for the sale of estates or goods by auction, nor are the name and residence of the printer required upon bank-notes,

bills, etc., or to any paper printed by authority of any public board or public office. Provision is made that no proceedings can be taken without the fiat of the Attorney-General being first obtained. The Ordinance follows on the lines of the Newspapers, Printers and Reading-room Repeal Act, 1869 (32 & 33 Vict., c. 24), whereby certain provisions in the previous Acts of the Imperial Parliament were repealed and re-enacted.

Summary Conviction Offences (Larceny).—Claim raiders in the diamond- and gold-fields trade on the knowledge that considerable expense is incurred in bringing claim-raiding cases from the interior to Georgetown for trial before the Supreme Court under the provisions of the Indictable Offences (Larceny) Ordinance, 1922 (No. 21), and also the fact that under existing conditions police supervision cannot be as efficient as one would wish. It is therefore considered expedient to make this class of offence a summary conviction offence in addition to being an offence as at present triable on indictment, the maximum imprisonment being limited to six months. It is anticipated that if the magistrate has power to deal summarily with this class of case that knowledge will have a salutary effect on the claim raiders.

Ordinance No. 11 provides in s. 3 that every person who (1) steals any raw gold, precious stones or valuable minerals, (2) severs from any land, with intent to steal, any raw gold, precious stones or valuable minerals, (3) severs from any land, with intent to steal, any bauxite (4) abstracts from any land, with intent to steal, any petroleum, asphalt, manjak or any substance of a like nature, (5) bleeds any growing tree with intent to steal any rubber, balata, gum or any substance of a like nature, shall be guilty of a felony and liable to six months' imprisonment. By s. 4 every person who enters any land with intent to do any of the acts mentioned in s. 3 shall be guilty of a felony and liable to six months' imprisonment. By s. 5 any person who is charged with an offence under either s. 3 or s. 4 and the evidence discloses the commission of an offence under the other section, he may be convicted and punished for every such offence.

West India and Panama Telegraphic Communication.—Ordinance No. 12 repeals all the Ordinances of the Colony under and by virtue of which the West India and Panama Telegraph Company, Limited, maintained and operated telegraphic communication between this Colony and Trinidad and places beyond and determinates all rights and privileges, and declares forfeited all licences granted or issued to the Company under any Ordinance of the Colony. The West India and Panama Telegraph Company having ceased to maintain telegraphic communication between this Colony and Trinidad, and as such communication is now maintained and operated by the Pacific Cable Board as agents for His Majesty's Dominions by virtue of the West India Islands (Telegraph) Act, 1924 (14 & 15 Geo. V, c. 14) and the Pacific Cables Acts, 1901 to 1924 (14 & 15 Geo. V, c. 19) between this Colony and Barbados, it became necessary to put an end to the rights of the West India and Panama Telegraph Company, Limited.

Air Navigation.—Ordinance No. 13 regulates and controls air navigation in the Colony. It is of a temporary nature and will only remain in force until the Secretary of State notifies the Governor that the Air Navigation (Colonies and Protectorates) Order has been established.

Patents.—The object of the Registration of United Kingdom Patents Ordinance (No. 19) is to give effect to the decision of the Imperial

Economic Conference in connexion with the registration in the Colonies of patents granted in the United Kingdom. By it the grantee of a patent in the United Kingdom is entitled to register that patent in this Colony and registration shall confer all rights and privileges subject to the local laws as though the patent had been issued in the United Kingdom with an extension to the Colony. Provision is made for the procedure to be adopted by the party who desires to have the patent registered. The privileges and rights in this Colony shall date from the date of the patent in the United Kingdom and shall continue in force so long as the patent remains in force in the United Kingdom. No action, however, for infringement of a patent so registered shall be maintained in respect of any manufacture, use or sale prior to the date of notification in the *Gazette* of the issue by the Registrar of the certificate of registration.

Any person who alleges that his interests have been prejudicially affected by the issue of a certificate of registration may apply to the Supreme Court to declare that the exclusive privileges and rights conferred by such certificate of registration have not been acquired on any of the grounds upon which the United Kingdom patent might be revoked under the law for the time being in force in the United Kingdom.

Motor-Cars.—Ordinance No. 23 is the result of the deliberations of a committee, and makes provision for the proper supervision and registration of motor-cars and motor-drivers.

Shops Regulation.—Ordinance No. 24 regulates the hours of closing of certain licensed places, and limits the hours of work of shop assistants. Provision is made that where female shop assistants are employed seats are to be provided for their use behind the counter.

XII. WEST INDIES.

1. THE BAHAMAS.

[*Contributed by the* Hon. Harcourt Malcolm, O.B.E., K.C., *Speaker.*]

Acts passed—32.

Customs Formalities.—The Customs Formalities Regulation Act (c. 1) carries out the requirements of the International Customs Convention, signed at Geneva on November 3, 1923.

Opium.—C. 2 amends the Opium Act, 1924, by supplying a definition of "corresponding law" and adding a new offence.

Garage Licences.—C. 3 provides for compulsory licensing and regulation of all premises used as a garage in New Providence.

Prisons.—C. 4 provides for the removal of an ill prisoner to a hospital and for the segregation of prisoners in case of infectious or contagious diseases occurring in a prison.

Explosives and Firearms.—C. 5 regulates the sale of dynamite.

The Revolvers Amendment Act (c. 7) provides a new sub-section to the Revolvers Act, 1909, covering the possession of a revolver by an unlicensed person.

Police.—C. 8 enables a person enlisted out of the Colony to be engaged in the first instance for three years.

C. 21 provides new sections covering the reappointment of constables and fresh terms for pension and good conduct badges and pay.

Births and Deaths.—The Births and Deaths Registration Acts Repeal Act (c. 10) repeals three Acts 1913–1923 which provided a code on the

subject but which were never brought into effect, so that the existing law still dates from 1850.

Public Establishments.—C. 13 consolidates the law relating to public service of the Colony.

Agricultural and Marine Products Board.—C. 17 provides for the appointment of a Board to deal jointly with both agricultural and marine products. It defines the duties and powers of such Board. Previously there were two separate Boards, one dealing with marine products and the other relating to agriculture.

Public Boards.—C. 18 declares that all public boards shall consist of five members only, two of whom shall be members of the House of Assembly.

Dog Licences.—C. 20 imposes a licence fee of five shillings on every dog and of ten shillings on every bitch.

Statute Law Revision.—C. 26 is preliminary to the compilation of the revision of the Statute Law of the Colony. It deals with enactments which have become superfluous or have ceased to be in force or have become unnecessary and perpetuates the operation of several temporary enactments.

Stamps.—C. 28 consolidates and amends the law relating to the imposition of stamp duties and adds to the number of those who can cancel stamps.

2. BARBADOS.

[*Contributed by* K. E. Poyser, Esq., D.S.O., *Attorney-General.*]

1924–1925.

Forty-three Acts in 1924 and forty-eight in 1925 were passed and assented to. The following are of general interest:

British West Indian Telegraph.—No. 2 of 1925 gives power to the Pacific Cable Board to maintain a cable and wireless telegraph station.

Pensions.—No. 3 of 1925 makes provision for pensions for Public Officers. The Act generally follows the Pension Acts of the other West Indian Colonies. Officers on retirement are granted for each year of service a pension of one-sixtieth of the annual salary and emoluments of the office they last held. Officers with certain professional qualifications may receive an addition of ten-sixtieths to their pensions, provided the maximum pension of forty-sixtieths is not exceeded. An officer may retire on attaining the age of sixty and retirement is compulsory at sixty-five.

Bankruptcy.—No. 5 of 1925 is modelled, with necessary modification, on the Imperial Bankruptcy Act, 1914 (4 & 5 Geo. V, c. 59).

Teachers' Pensions.—Under the provisions of No. 29 of 1925 any person employed as a master or mistress in any public school supported or assisted by a grant from the Public Treasury is entitled to a pension on retirement.

Wireless Telegraphy.—Hitherto the importation or erection of wireless apparatus was illegal. No. 43 of 1925 enables receiving apparatus to be imported and installed.

3. JAMAICA.

[It is hoped to publish this Summary in the next *Review.*]

4. WINDWARD ISLANDS.

(i) Grenada.

[*Contributed by* N. Julian Paterson, Esq., K.C.]

Seventeen Ordinances were passed during the year 1925, of which the more important are the following:

Agricultural Loans.—Ordinance No. 6 facilitates the borrowing of money for the cultivation of land by giving the lender a first charge on the crop of the succeeding year and making the misapplication of the loan a criminal offence. The system established by the Ordinance is as follows: On an owner of land giving to incumbrancers, by advertisement, a statutory notice of intention to obtain a loan and no objection being made by any incumbrancer, the loan may be registered under the Ordinance. Upon registration it becomes a first charge, in priority to any mortgage or other charge, on the crop obtained from the land during the succeeding year. The loan must be applied only for the purposes specified in the Ordinance.

Legislative Council.—In pursuance of the Imperial Grenada Legislative Council Order in Council, 1924, Ordinance No. 10 makes provision for the registration of voters, the holding of elections and with respect to procedure in election petitions.

Plant Disease.—In view of the prospect of the establishment of a banana industry in the Colony it was considered advisable to enact more effective legislation for the eradication of plant disease than was afforded by the then existing law. Ordinance No. 13 was passed for that purpose, the Jamaica Act being used as a model.

Public Health.—Ordinance No. 16 consolidates and amends the law relating to public health. Under the previously existing law there was a General Board of Health for the Colony and each District Board was the Sanitary Authority for its district. The Ordinance substitutes for these various authorities a single authority called the Sanitary Authority, consisting of the Chief Medical Officer advised and assisted by other members, five appointed by the Governor, and one member of each District Board, appointed by the Board of which he is a member. Other amendments of the law relate to minor matters or are amendments incidental to the process of consolidation.

(ii) St. Lucia.

[*Contributed by the* Hon. J. E. M. Salmon.]

Ordinances passed—12.

Circus and Similar Shows.—Ordinance No. 9 regulates the conduct or operation of circuses, merry-go-rounds and like shows, which can now take place only under licence, the fee for which is £2 per week or part thereof. The licence is to specify conditions as to site, days and hours for the operation of the show and the period of operation.

Education.—The Scholarship Amendment Ordinance (No. 6) makes the island scholarship biennial from 1926.

Government Loan.—The Government Debt Reduction Loan Ordinance (No. 10) provides for the raising of £70,000 for the purpose of discharging certain liabilities of the Colony as specified therein.

Legislature.—The Legislative Council (Elected Members) Ordinance (No. 12) provides for the registration of voters and the holding of elections

of members for the St. Lucia Legislative Council and empowers the Chief Justice to make rules for regulating the procedure with respect to election petitions. His Majesty in Council by Order dated March 31, 1924, provided for a Legislative Council for the Colony consisting of the Governor, six *ex-officio* members, three nominated members and three elected members. No. 12 makes provision for the election of these three members.

Pensions.—By No. 11 a pensionable public officer may elect to take on retirement a reduced pension and a gratuity (of one-fourth of his pension multiplied by ten) in lieu of the pension to which he may be entitled under the principal Ordinance (No. 93, 1916 Revision). It also provides for a death-gratuity equal to the annual salary and emoluments of a deceased officer who had served for ten years before his death.

Revenue and Taxation.—The Customs Duties Amendment (No. 8) exempts from import duty imports for Girl Guides.

The Income Tax Amendment (No. 3) provides how the profits of shipowners are to be assessed.

The Export Duties Amendment (No. 5) alters the export duty on cocoa and provides how the duty is to be calculated and paid.

The Liquor Licence Amendment (No. 7) repeals section 63 (1) of No. 16 of 1921, which empowered the Governor in Council to alter licence fees and trade duty.

The Stamp Duty Amendment (No. 2) amends No. 123, 1916 Revision, by deleting from the schedule "passport 4*s*."

Whale Fishery.—No. 1 prohibits the taking of whales in colonial waters unless under licence, the conditions of which may be fixed by regulation by the Governor in Council. The Governor may authorize the taking or killing of a whale for a scientific or any other purpose, the person authorized being in consequence exempt from penalties and forfeiture under the Ordinance. Derelict whales may be taken possession of, but they may not be appropriated except on such terms and conditions as to royalty or otherwise as the Governor in Council may approve.

(iii) St. Vincent.

[*Contributed by the* Hon. Neville Turton, M.A., *Attorney-General.*]

The year 1925 was a lean one in St. Vincent, only seventeen Ordinances being enacted, of which only sixteen remain effective, No. 8, an Interpretation Ordinance, being disallowed by the Secretary of State for the Colonies.

Income-tax.—No. 3 amends the Income-tax Ordinance, 1924, by allowing shipowners to return their taxable profits as the sum bearing the same ratio to the sum payable in respect of fares or freight for passengers, goods or mails shipped in the Colony as his total profits bear to his gross earnings.

Whaling.—No. 5 brings the law of whaling up to date ; this Ordinance is important in view of a possible expansion of the industry, s. 4 giving the Governor in Council considerable powers of regulating the industry by means of regulations.

Public Health.—By the Medical Officers Ordinance, 1902, Government medical officers give free medical aid to all paupers, labourers over sixty, to labourers' children under fourteen years of age and to destitute women in childbirth. By Ordinance No. 6 of 1925 free medical aid is extended

in cases of venereal disease to all persons whose income is not more than £50 and who do not possess property worth more than £100.

Legislative Council.—No. 14 provides the legislation in connexion with the newly established Legislative Council. Part II deals with the registration of voters, Part III with elections and Part IV with election petitions, and the two schedules contain elaborate registration rules and rules relating to polls. The Ordinance is based on a similar Ordinance enacted in Grenada.

The remaining Ordinances deal purely with matters of local routine.

5. TRINIDAD AND TOBAGO.

[*Contributed by* WALTER C. HUGGARD, ESQ., K.C., LL.D., *Attorney-General.*]

During the course of the year 1925 the laws of the Colony were revised and the Statute Book reduced from twenty-six volumes containing 1,181 Ordinances to four volumes containing 317 ordinances. Forty-six new Ordinances were passed, and of these the following are the more important:

Children.—No. 4 consolidates into one enactment the Ordinances relating to children and young persons, and introduces a number of new provisions dealing with the detention, trial and punishment of youthful offenders. Parts I, II and III of the Ordinance (Cruelty to Children, Juvenile Smoking, Industrial Schools and Orphanages) are based on Parts II, III and IV of the Children Act, 1908, of the Imperial Parliament. Part IV of the Ordinance (Juvenile Offenders) follows the lines of Part V of the Children Act, 1908, so far as the provisions of that enactment are suitable to local circumstances.

Trustees.—No. 9 amends and consolidates the law relating to Trusts and Trustees, and is based on the Trustee Act, 1893, of the Imperial Parliament.

Criminal Law.—Nos. 10, 11, 12, 13 and 15 consolidate the law relating to offences against the person, malicious injuries to property, coinage offences, forgery and perjury.

Income-tax.—S. 2 of No. 19 exempts institutions established for the encouragement of thrift from payment of income-tax.

S. 5 provides for the taxation of non-resident British shipowners on the basis of a ratio of their profits attributable to the Colony instead of on a percentage of their gross receipts in respect of fares and freight.

Agricultural Contracts.—No. 36 consolidates and amends the law relating to agricultural contracts and introduces important changes, including a provision that contracts made subsequently to a mortgage shall bind the mortgagee.

Elections.—The Registration of Electors (Legislative Council) Ordinance, No. 41, and the Elections (Legislative Council) Ordinance, No. 42, provide for the method of registering electors and the procedure at elections of members of the Legislative Council.

XIII. MEDITERRANEAN.

1. GIBRALTAR.

[*Contributed by* CAPTAIN THE HON. M. H. ANDERSON, C.B.E., K.C., R.N. (ret.), *H.M. Attorney-General.*]

Seven Ordinances were enacted during the year 1925.

Supreme Court (Funds).—Ordinance No. 1 deals with the disposal of

funds and securities under the control of the Supreme Court and gives power to the Court in its discretion to transfer such to the Crown Agents for the Colonies instead of only to the local Treasurer.

Diseases of Animals.—Ordinance No. 2 is an enactment to control contagious diseases in animals. It follows the lines of Imperial legislation on the same matter.

Merchant Shipping.—Ordinances Nos. 3 and 6 are amendments to the Merchant Shipping Ordinance. By Ordinance No. 3 the Imperial rules as to life-saving appliances in ships are extended to Gibraltar and several minor amendments of the principal Ordinance are effected. Fees for surveys and for other purposes are raised to approximately the Imperial standard. By Ordinance No. 6 the limit of liability of an Admiralty pilot acting on board any merchant vessel is fixed at £100 plus the pilotage fee in respect of the service upon which he is engaged.

Alien Traders.—Ordinance No. 4 amends the Alien Traders Ordinance, 1924, by exempting from payment of licence fees institutions engaged solely in religious, charitable and philanthropic undertakings.

Trustees.—Ordinance No. 5 extends the investments open to trustees by giving trustees power to invest trust funds in any Colonial stock registered in accordance with the Colonial Stock Act, 1900.

Revenue.—Ordinance No. 7 is an amendment of the Revenue Ordinance. The amendments made are of minor character and affect chiefly administrative details. The only important matter is provision for rebate of duty paid on motor spirit which is proved subsequently to have been re-exported in quantities of not less than 400 gallons.

2. CYPRUS.

[*Contributed by* C. C. GERAHTY, ESQ., *Attorney-General.*]

Laws passed—22.

It is worthy of note that on May 1, 1925, Cyprus received the status of a Colony.

The following are the principal enactments.

Silkworm Industry.—No. 1 provides that no filature shall be established without the licence of the Governor.

Provisional Powers.—No. 2 empowers the Governor in Council during the period of five years from the date of the determination of the war to make orders (1) to regulate, permit or prohibit the exportation and importation of animals and things, (2) to regulate dealings with coinage and currency notes and provide for the issue of currency notes, and (3) to provide for the custody by a Public Custodian of enemy property.

Game and Wild Birds.—No. 6 amends the Game and Wild Birds Protection Law, 1922, and fixes the close season as February 1 to August 19. The Governor in Council may order that within certain specified areas wild birds may be shot from February 1 to March 31 in any year, and the Commissioner of a District may by licence authorize the shooting of crows, sparrows, thrushes, blackbirds, starlings, larks, beccaficos, bee-eaters, doves, hoopoes, golden orioles, pigeons, jackdaws, magpies, ravens and hawks between April 1 and June 15.

It is further provided that no person between April 1 and August 19 shall carry a gun except for a specified purpose under licence from the Commissioner of a District.

Charities.—No. 7 provides that the trustees of any charity for educational, literary, scientific or public charitable purpose may apply to the Governor for a certificate of registration of the trustees of any such charity as a corporate body, and the Governor in Council may grant a certificate of incorporation by which all the moveable and immoveable property belonging to or held by any person in trust for such charity shall vest in such body corporate. A duty of £50 is charged for every certificate of incorporation granted under the law. Provision is made regarding the liability of trustees, the accounts to be furnished by them and the audit of accounts. Power is given to the Attorney-General to enforce trusts and all proceedings of this nature shall be determined by the Supreme Court, who shall apply English Law.

Agricultural Bank.—No. 9 provides that any Co-operative Society may tender to an Agricultural Bank mortgages of immoveable property which have been given to such Society by its members, as security for loans.

Agricultural Bank (Guarantee).—Nos. 11 and 15 empower the Governor to enter into an agreement of guarantee with the Agricultural Bank of Cyprus, Ltd.

Mines.—No. 12 provides for the regulation and inspection of mines and for the payment of compensation to workmen for injuries suffered in the course of their employment in the mines. It is worthy of note that this is the first measure for the protection of labour passed in the Colony.

Construction of Laws.—No. 14 amends the Interpretation Law, 1901, and defines the meaning of certain changes in the title of officers consequent upon the Letters Patent dated May 1, 1925, constituting the office of Governor and Commander-in-Chief of the Colony of Cyprus and providing for the Government thereof.

Wireless Telegraphy.—No. 18 provides for the regulation of wireless telegraphy on foreign warships within the territorial waters of Cyprus.

Marriage.—No. 19 amends the Marriage Law, 1922, with regard to marriages of persons who are not members of the same Church.

Port Regulations.—No. 21 empowers the Chief Collector of Customs to compound proceedings for the recovery of penalties incurred under the provisions of Law 19 of 1879.

Dangerous Drugs.—No. 22 regulates the importation, exportation, manufacture, sale and use of opium and other dangerous drugs and imports the provision of the Imperial Act.

3. MALTA.

[*Contributed by* C. J. Colombos, Esq., LL.D.]

Acts passed—14; Ordinances passed—4.

Rent Restriction.—Act No. 1 adopts, in a modified form, the restrictions against unreasonable increase of rent and recovery of possession already enacted by Imperial and Dominion legislation. It establishes an Arbitral Commission to which aggrieved tenants may have recourse for the fixing of a just rent and equitable conditions of new lease. Special provision is made in the Act barring landlords from taking advantage of the increased value of tenements due to the industrial, commercial or professional goodwill of tenants.

Public Libraries.—Act No. 2 makes it compulsory upon the author, and, in the case of an anonymous book, upon the printer, to supply to each of the two public libraries a copy of any work printed or published in the Island.

Monopolies.—With a view of affording assistance to new or nascent industries, the Act (No. 10) provides that the Governor in Council may grant for a specified period—which, however, must not exceed fifty years—the exclusive right of starting and carrying on such industries as are either new or have not been already sufficiently exploited.

Protection of Antiquities.—Act No. 11 reproduces the main provisions of Act No. 13 of 1922, which it repeals. The new clauses give a right of pre-emption to the Government on the occasion of a sale or exportation of the antiquity, and further provide that no excavations for the discovery of antiquities may be carried out except by the Government or under Governmental direction and supervision.

Treaty of Peace.—Ordinance No. 1 construes the terms of "Custodian" and "Administrator" of Enemy Property and makes certain modifications to the Orders of His Majesty in Council entitled the Treaty of Peace Order, 1919, the Treaty of Peace (Austria) Order, 1920, and the Treaty of Peace (Bulgaria) Order, 1920, so as to adapt them to local circumstances.

Wireless Telegraphy.—Ordinance No. 3 prohibits the use, within the ports and territorial waters of Malta, of wireless telegraphy and telephony by foreign vessels of war and foreign service aircraft unless pursuant to a permission first obtained from the Senior Naval or Air Force Officer, as the case may be.

XIV. PALESTINE.

[*Contributed by* NORMAN BENTWICH, ESQ., M.C., *Attorney-General.*]

Ordinances passed—39.

The output of legislation for the year 1925 was greater than in any previous year since the establishment of the civil administration, and a number of important administrative measures were included. The need of replacing the greater part of the Ottoman administrative law by more exact and more suitable legislation based upon English models involves the constant enactment of fresh Ordinances; and several of the early Ordinances passed by the Civil Administration have required to be amended or replaced in the light of fuller experience.

Courts.—The Jurisdiction of Civil and Religious Courts Ordinance (No. 3) provides for the conversion of wakfs (charitable endowments) created before the Moslem religious courts under the Ottoman regime for the benefit of non-Moslem bodies into charitable trusts under the civil law. Where such charitable endowments are not converted into civil trusts but remain wakfs, special provision is made for jurisdiction of the religious tribunals with regard to their administration. A conflict which arises between a civil and a religious Court upon a question whether a matter is one of wakf within the exclusive jurisdiction of the religious Court has to be referred to the special tribunal established in the Palestine Order in Council, which consists of the British judges of the Supreme Court sitting with the principal authority of the community concerned. To

clear up doubtful questions as to the jurisdiction of the religious Courts in questions of immoveable property claimed to be wakf, it is provided that every action concerning the ownership or possession of immoveable property shall be decided by a civil Court, notwithstanding any claim to wakf.

The jurisdiction of the Moslem religious Courts in matters of diyet (claims for blood money) which are based on Moslem law is restricted to cases in which all the parties concerned are Moslems. Under the Ottoman regime the jurisdiction applied to all claims of the kind, whatever the religion of the parties concerned. The Ordinance vests the jurisdiction in other cases in the civil Court, unless all the parties agree to refer the application to the Moslem religious Court.

Amendments were made to the Jurisdiction of Magistrates' Courts Ordinance and to the Courts Ordinance. While the Courts Ordinance of 1924 provided that the persons to be appointed British judges must be English or Irish barristers or Scottish barristers, the amending Ordinance (No. 15) extends the field of choice to any British subject who has been admitted to practise as a barrister or advocate in any part of His Majesty's Dominions or in any territory under His Majesty's protection or in respect of which there is a British mandate.

Criminal Law.—No. 16 constitutes the offences of procuring women for unlawful purposes, and adopts the provisions of the International Convention concerning white-slave traffic, to which Palestine has now adhered.

No. 9 maintains in force for a further period of a year the enactment for the prevention of crime in tribal areas.

Customs and Revenue.—The Tobacco Ordinance (No. 8) is a fresh statement of the whole law with regard to the regulation of the growing, manufacture, sale and taxation of tobacco. The land tax which previously was imposed on areas sown with tobacco is abolished and excise duty is imposed on all tobacco consumed in Palestine. Nos. 11 and 18 revise the customs duties payable on imported tobacco.

The Tithes Reduction Ordinance (No. 10) provides for lowering the rate of tithe from 12½ per cent., to which it was raised by the Turks during the War, to the original amount of 10 per cent. on the gross product.

No. 17 provides for the exemption of the cotton crop from tithe for a period of two years.

Another enactment (No. 6) abolished the export duty of 1 per cent. on all consignments sent by parcel post.

The law with regard to the prosecution and penalties for customs offences was modified by the Customs Prosecution Ordinance (No. 33), which abolishes the administrative customs tribunals, which under the Ottoman system were empowered to deal with all customs offences. Jurisdiction in such matters is now vested in the civil Courts, subject to the power of the Director of Customs to compound offences within certain limits.

The Salt Ordinance (No. 36) provides for a radical modification of the law with regard to the control of the Government monopoly of salt. While under the Ottoman regime the collection and manufacture of salt was altogether prohibited, provision is now made for licensing persons to manufacture salt, the imposition of an excise duty and the power of the Government to fix a maximum retail selling price.

The calling of customs house agents was regulated by No. 20, which

requires all persons carrying on that vocation to obtain a licence from the Director of Customs.

Municipalities. — No. 2 validates acts of municipal councils which since the beginning of the British Occupation have been nominated by the Government, while in accordance with the Ottoman Municipal Law the local authorities should be elected.

No. 22 authorizes municipal councils to increase the amount of the house rate, hitherto fixed at 5 per cent., to 10 per cent. of the rental value of immoveable property within the municipal area.

Another Ordinance (No. 5) empowers the High Commissioner to define the limits of a municipality, the Ottoman law being defective in this respect.

An emergency enactment, the Urtas Springs Ordinance (No. 13), was passed to enable the municipality of Jerusalem to use the springs of a neighbouring village of Urtas for the purpose of supplementing the water-supply of the town, which was seriously affected by an abnormally small rainfall. The validity of the enactment was questioned in the High Court, which upheld the objection that certain provisions of the Ordinance were contrary to the terms of the Mandate with regard to the obligation of the Mandatory to safeguard the civil rights of all the inhabitants. The Government, however, obtained leave to appeal to the Judicial Committee of the Privy Council, which reversed the order of the High Court and confirmed the validity of the Ordinance.

International Conventions.—Two Ordinances were enacted to enable Palestine to accede to international Conventions designed to protect public health. The White Phosphorus Matches Prohibition Ordinance (No. 23) and the Dangerous Drugs Ordinance (No. 21) both embody principles of English legislation on those subjects.

Treaty of Peace with Turkey.—The Treaty of Peace with Turkey came into force during the year, and Ordinance No. 28 gives legal effect in Palestine to the clauses of the Treaty, and vests certain officers of the Government with power of taking action with regard to economic provisions.

The Ottoman Debt (Payment of Annuities) Ordinance (No. 4) provides for the annuities payable by Palestine on account of the Ottoman Public Debt being a first charge upon the revenue and assets of the country.

Immigration.—The law with regard to immigration had been laid down in an early Ordinance of the civil Government in 1920, but required complete revision. Ordinance No. 32 provides that no person other than a Palestinian citizen shall enter Palestine except by the permission of the Chief Immigration Officer. Permission is to be refused to any person who is (*a*) a lunatic, etc., or (*b*) a prostitute ; or (*c*) likely to become a pauper or a public charge ; or (*d*) has been convicted of a serious offence ; or (*e*) is deemed by the High Commissioner to be an unsuitable person for admission, or is shown by evidence to be likely to conduct himself so as to be dangerous to peace and good order in Palestine ; or (*f*) has not in his possession a valid passport or some other document establishing his nationality and identity ; or (*g*) is suffering from any dangerous disease to be notified, or refuses to comply with any regulations made in the interests of public health. An immigration officer or a medical officer may inspect any person seeking to enter Palestine and may detain him provisionally. If a person is refused entry, he is to be removed by

the master of the ship on which he arrived, or by the owners of that ship, to the country from which he embarked. Power is given to the High Commissioner to issue a deportation order in case of an immigrant who has not become a Palestinian citizen and is convicted of any offence or is found in the country without having obtained legal permission to enter it, or who overstays the period of a temporary visa granted to him as a traveller or who is deemed to be an undesirable resident.

Passports. — An earlier enactment of the Civil Government was replaced by the Passports Ordinance (No. 37), which requires every person entering Palestine to produce a passport or similar documents, and prescribes penalties for offences connected with passports.

Mining.—No. 19 is a comprehensive measure of mining legislation which was based on a model Act drawn for the British Empire.

Land.—The Acquisition of Land for the Army and Air Force Ordinance (No. 12) replaces an earlier Ordinance of the Government of 1920 issued for that purpose, and gives full powers to acquire any rights over land, as well as land itself for the purposes of His Majesty's Forces.

No. 13 makes fresh provision for the regulation of the profession of surveyors of land.

Charitable Trusts.—No. 26 of 1924 was amended in certain particulars by an amendment Ordinance (No. 24), and the Public Trustee of Charities Ordinance (No. 25) establishes the office of a Public Trustee of Charities, who may be appointed as a custodian trustee either alone or as an ordinary trustee or with any person or body of persons. Power is given to a religious Court to remove existing trustees and appoint the Public Trustee of Charities as an ordinary trustee of a wakf, or religious endowment. The Public Trustee cannot be required to accept the appointment for any charitable trust save with his consent.

The Orthodox Patriarchate.—The affairs of the Patriarchate called for further legislation since the Ordinance issued in 1921 which established a Government Commission to supervise the financial affairs of the Patriarchate had run its course. No. 27 provides for the continuation of the Commission and amends its powers in various particulars.

Pensions.—No. 26 introduces a scheme of pensions for Government officers which is based on Imperial legislation on the subject.

FOREIGN.

1. FRANCE.

[*Contributed by* OLIVER E. BODINGTON, ESQ.]

Cheap Dwellings.—The law of April 10 modifies the law of December 1922, as regards cheap dwellings.

Fertilizers, Adulteration.—The law of March 19 is directed against fraud and adulteration in the sale of fertilizers. The importance of a law of this kind in a country which is still preponderantly an agricultural country will be easily realized. Its principal provision obliges the vendor to deliver with the invoice a list containing the quantity of each fertilizing element in the fertilizer sold.

Finance Law.—The law of July 13 contains amongst other things a provision obliging persons carrying on a liberal profession to make, in addition to their declaration within the first two months of the year, a statement showing the amount of their gross profits, their personal

expenditure, and the amount of their net profits for the preceding year. The same law prescribes an increase of 25 per cent. for tax-payers aged at least thirty years who are unmarried or divorced.

All tax-payers of French nationality as from January 1, 1925, who possess property abroad must make a statement for the fiscal authorities in the first two months of each year, setting forth the nature and value of these properties and the income accruing therefrom.

Anyone carrying on an industrial or commercial business is liable to a tax known as the apprenticeship tax, the proceeds of which are devoted to the development of technical instruction and apprenticeship as well as to scientific laboratories.

General Arbitration Clause.—The law of December 31 for the first time makes general arbitration valid in French law.

Labour.—The law of January 24 regulates the night labour of women and children, prescribing that children, workmen or apprentices aged less than eighteen and women cannot be employed in any night work in workshops, manufactures, mines, quarries and so forth, secular or religious, even although these establishments take on a character of professional teaching or benevolence. The only exception is for the work of members of a family under the authority of a father, mother or guardian. It is, moreover, forbidden to employ children of less than eighteen in any night work in the carrying trade for persons or goods. Night work is considered to be work between 10 o'clock at night and 5 o'clock in the morning. The night rest of children of either sex and of women must be of at least eleven consecutive hours.

Temporary derogations from these provisions are allowed in the case of certain industries where the raw material is liable to rapid deterioration. Also in the case of male children between sixteen and eighteen years for the purpose of preventing imminent accidents or making good the consequences of accidents which have occurred.

In case of *force majeure* or accidental interruption which is not of a periodical character, the head of the concern may employ children of sixteen years old or adult women by previously advising the Inspector. But this derogation from the law must not comprise more than fifteen nights in a year without the authority of the Inspector.

There are several provisions in the law in regard to working in mines, the law regulating registry offices and consequent modifications of the Labour Code, the law of February 2.

Printed Works.—The law of May 19 provides for the deposit of two copies of a printed work of whatsoever nature, including musical, photographic, cinematographic, phonographic works and generally all products of the graphic arts reproduced in series. Two copies must be deposited, one by the printer or the producer and another by the publisher. These works are deposited in Paris at the Ministry of the Interior and in the Departments at the offices of the Prefecture or sub-Prefecture. These are accompanied by a declaration in duplicate, dated and signed, mentioning the title of the work, the number of copies printed, the name of the author or the statement that the work is anonymous, the name, address and capacity for whom the edition is made, the date of completion of the edition. It is to be noted that this deposit is simply for the purpose of having a public and complete collection of intellectual works in France. It has nothing to do with copyright.

Private Companies (Sociétés à responsabilité limitée).—The law of

March 7 introduces into France the equivalent of what we know as a private company. There are certain distinctions of detail, however, between companies so organized and private companies in English law. There is no limit to the number of shareholders; the minimum is two. The capital of the company must be 25,000 francs at least and it cannot be reduced below that figure. It must be divided into shares of 100 francs at least or multiples of 100 francs. All the shares must have been allotted to the shareholders and fully paid up before the company can be constituted. So also must the shares representing in whole or in part contributions other than cash. The founders must expressly declare in the constitutive deed that these conditions have been complied with. All forms of public issue of securities are forbidden. In all documents, invoices and publications issued by the company it must be stated that the company is a *société à responsabilité limitée*, together with the amount of the capital. The shares in the company cannot be represented by negotiable securities whether registered or to order and they can only be transferred to third parties outside the company with the consent of the majority of the shareholders representing at least three-quarters of the capital. They are managed by one or more managers, who need not be shareholders and who may receive a salary or give their services gratuitously. Unless the Articles provide to the contrary, they have the fullest powers for managing the company. Every shareholder has a voice in the decisions of the Company, any clause of the statutes to the contrary notwithstanding. Each shareholder has the same number of votes as he has shares. In companies comprising more than twenty shareholders an annual general meeting must be held. Other general meetings can be called by the managers or by the committee of supervision, if there is one, or by shareholders representing more than one-half of the capital. In every company comprising more than twenty shareholders a committee of supervision must be appointed. Every year one-twentieth of the profits must be set aside to form a reserve fund and this deduction must be continued until the reserve fund reaches one-tenth of the capital. It may be stipulated in the statutes that the capital can be increased by successive payments made by the shareholders or admission of new shareholders, or that it may be decreased by the total or partial withdrawal of the contributions made. General partnerships, special partnerships and *Sociétés anonymes* constituted prior to or subsequent to the present law may transform themselves into *Sociétés à responsabilité limitée* under reserve of third-party rights.

Rents. Commercial Premises.—The law of April 24 lays down the conditions as regards prolongation of leases of commercial premises. It provides in particular that foreigners, even those who are admitted to domicile in France, cannot claim the benefit of the extensions provided in the law whenever the owner of the house, being of French nationality, claims to occupy it personally.

Successions. Surviving Wife.—The law of April 29 extends in certain contingencies the life-interest of the surviving husband or wife. Under the original text the surviving husband or wife not divorced, who does not succeed in fee, and against whom there does not exist any final judgment of judicial separation, had a life-interest in the estate of the pre-deceased spouse of one-quarter, if the deceased left one or more children, issue of the marriage, of the share of a legitimate child receiving the smallest portion, on condition that this shall not exceed one-quarter,

if the deceased had children of a preceding marriage ; and of one-half in all other cases. This last provision is altered in the new law and becomes one-half if the deceased left natural children or legitimate issue of natural children, brothers and sisters and issue of brothers and sisters. If none of these exists, then the surviving husband or wife takes a life-interest in the whole estate.

Tax Cheques.—In order to stimulate the payment of taxes, tax cheques were issued by the law of March 11, with a discount of 5 per cent. off the total amount to the tax-payer—a purely temporary measure enacted at a time when the Treasury had urgent need of money and one which was productive of some immediate result.

2. GERMANY.

Public Law.

[*Contributed by* Professor Gerhard Lassar, Hamburg.[1]]

Broadly speaking, the legislation of the *Reich* in 1925 was directed towards replacing transitory laws by permanent statutes, now rendered possible owing to the cessation of inflation and to the Dawes Agreement. The enactments passed may be divided into two main heads : (1) Constitutional and Administrative Law, and (2) Financial Measures.

President of the Reich.—The constitution of the *Reich* contains no general provision as to the filling of the office of the president of the *Reich* during a temporary vacancy, and accordingly, on the death of the first president, a law was passed providing that until a new president was elected, the president of the *Reichsgericht* (chief justice) should be appointed to take the place of the president of the *Reich* (RGBl. I, p. 17). So far the matter has not been regulated by any permanent law.

Reduction of Government Officials.—In virtue of an empowering statute the government of the *Reich* had in 1923 as a measure of economy passed an ordinance for the reduction of the number of officials (RGBl. I, p. 999). Under this ordinance a very large number of officials were prematurely placed on the retired list, either permanently or for a time, and employees who were not permanent officials were discharged. These measures constituted a serious invasion on what had hitherto been considered to be legal rights, and gravely prejudiced the hardly won " rights " of officials. These provisions were, for the most part, repealed in 1925. All that is left of them are certain provisions making it possible to discharge female officials who are married women. According to German law, officials are, in principle, appointed for life, but female officials who are married may now be dismissed when their family-budget shows that they are sufficiently provided for, or when their discharge is desirable in the interests of good administration. It is very doubtful if this enactment is constitutional.[2]

Schools.—Under the Weimar Constitution it was enacted by the so-called Elementary School Law of April 28, 1920 (RGBl., p. 851), that a system of elementary schools should be set up for all children during the first four years of school life. The system of intermediate and higher schools rests upon this foundation. It is only after the children have

[1] Translated by the Editor.

[2] Cf. in England *Short* v. *Poole Corporation*, 1926, 42 Times L.R. 107 and *Journal of Comparative Legislation*, Third Series, vol. ix, pt. i, p. 135.

satisfactorily passed through the four years of elementary work that those of them who are qualified can enter the intermediate and higher schools. The working of this law has led to difficulty owing to the fact that specially intelligent children have been kept back too much by the necessity of attending the elementary school for four years. It is accordingly provided by a law of April 18, 1925 (RGBl. I, p. 49), that in exceptional cases children who have shown themselves specially capable may be received into an intermediate or higher school after three years only. The law applies only to such children whose bodily and mental constitution and previous school work are such that they may be expected with confidence to keep up, without overstraining their strength, with good scholars of the class above them who have gone through the ordinary four years in the elementary school.

Foreign Credits.—Owing to the shortage of gold, local authorities had before 1925 been driven to borrow money abroad on a large scale. In order to prevent this policy from endangering the currency, a law was passed providing that before any foreign loan was raised or any similar operation carried out the consent of the *Reich's* Minister of Finance must be obtained. This measure is interesting not only from the point of view of currency, but also as a law which increases the power of the *Reich* over the States (RGBl. I, p. 25).

German Rentenbank Credit Institution.—As is well known, it was the German *Rentenbank* which first succeeded in supporting the German currency. By the bank law of August 30, 1924 (RGBl. I, p. 391), the regulation of the currency has been retransferred to the *Reichsbank*; while the *Rentenbank* is left only to wind up certain affairs. Side by side with these two banks the *Rentenbank Credit Institution* has been created as the central agricultural bank by the law of July 18, 1925 (RGBl. I, pp. 145, 156, 391). This is not an ordinary currency bank, but is entrusted with the sole task of promoting agricultural credit, whether on real or on personal security. In performing this task it is to avail itself of the instrumentality of existing institutions for making advances to farmers. Its chief organs are the Assembly and the Administrative Council. In the Assembly all the various classes of persons interested in agriculture are represented. Its main business is to choose the members of the Council which conducts the actual business of affording credits. Besides these elected members there are other members of the Council of whom the greater part are chosen by the *Reichsrat*. The institution is subject to the strict supervision of the *Reich*, and decisions of general importance require the approval of the *Reich*.

Child Labour in Industrial Occupations.—Children, whether one's own or those of others, must not be made use of in the production of moving pictures. The administrative authority has the power of granting exceptional permission in the case of children above three years of age, but only when there is no risk of injury to the child or of over-stimulating its imagination. The permission is, moreover, subject to conditions for the protection of health, morality and so forth, and as regards children of school age for the prevention of interference with their school work. In the case of children under three permission can only be granted if their participation is desirable in the interests of art or science and if special measures are taken for the protection of the children.

Motor Traffic.—The great increase in German and international motor traffic and the extraordinary progress of the motor industry have made

it necessary that this whole matter should be dealt with by new regulations. These cover three topics: undertakings which run motor vehicles between certain places, motor traffic within the country in general, and communications by motor traffic with foreign countries.

(*a*) In order to secure proper conditions and to provide for safety, a government licence has to be obtained by anyone who undertakes to carry persons or goods for hire outside the limits of a particular administrative area (*Gemeindebezirk*). The licence is granted only upon guarantees being furnished that the business will be conducted with safety and efficiency and when no public interest is interfered with.

(*b*) For traffic within the country a permit is necessary both for the motor and for the driver. (1) The motor must as regards its construction and equipment satisfy certain precise conditions, and no permit can be granted by the authority for any vehicle which does not comply with these. (2) Anyone who desires to drive a motor on public roads or in public places must have a special permit which is only granted after special examination. Motor-bicycles are subject to special regulations.

(*c*) International motor traffic is subject to special regulations in accordance with the international agreement of August 11, 1909, on the subject. As regards non-German motor vehicles a distinction is made between such as have an international licence and other vehicles. (1) Motors which have an international licence are not subject to the German regulations as to permits for motors and drivers. The motor, however, must be furnished with a certificate of nationality, and, before entering the territory of the *Reich*, must be taken to the nearest customs office on the frontier. The officials here are entitled to refuse recognition to the international permit if it is manifest that the requirements of the international agreement are no longer complied with, or if the owner or driver is not a subject of one of the States which are parties to the agreement. (2) Non-German motor vehicles not furnished with an international permit are subject to German regulations.

Export of Works of Art.—By a law of December 21, 1925 (RGBl. I, p. 471), a law which expires on December 31, 1927, certain works of art cannot be exported without the sanction of the Minister of Interior of the *Reich*. These are such works of art the export of which to a foreign country would involve a serious loss to the national art treasures and have been, on that account, placed upon a special register.

Social Insurance.—In the year 1925 a series of laws in the field of social insurance were passed, but as all these have been subsequently repealed or amended, it is not necessary to mention them here.

Taxation.—The most important piece of legislation of 1925 was the reform of the taxation laws. The financial legislation of the years 1919–25, about which we say nothing, bore all the marks of a period of inflation. In 1924, when the German currency had been stabilized, it became absolutely necessary to reorganize the taxation of the country on simple principles in such a way as to make it correspond to the capacity of the taxpayers. In order to understand the present legal situation a few brief remarks as to the history must be given.

Until shortly before the war the taxing power of the *Reich* and of the separate States respectively was, speaking broadly, divided in such a way that indirect taxes were levied by the *Reich* and direct taxes by the several States. During the war this arrangement had already been altered to the prejudice of the States. After the war nearly all the existing

direct taxes were transferred to the *Reich*. Moreover, a separate finance administration for the *Reich* was introduced, whereas, formerly, even the taxes levied by the *Reich* were collected by the States, and it was only the proceeds which were handed over to the Treasury of the *Reich*. The tax laws now in operation in Germany, therefore, are, in all matters which are of practical importance, laws of the *Reich*. The main importance of this reform is that to-day the same legal principles apply throughout the whole *Reich* and their uniform application is ensured by a single administration. But this very uniformity has increased the difficulty of a problem which even at an earlier period had been of great importance in Germany, a problem which cannot fail to present itself in any Federal State. That is the question of fair adjustment of taxation among the several States (*Finanzausgleich*). A large part of the duties devolving upon any government, *e.g.* internal administration, laws as to public health, poor-laws, education laws, are even at the present day administered by the separate States. Their revenues from taxation and otherwise are no longer sufficient to defray the necessary expenses. Hence arises the necessity that the *Reich* should make out of its income supplementary grants to the States. The amount of these supplementary grants and the principle according to which they are to be calculated is always the subject of lively political discussion. The financial reform of 1925, which, apart from certain details, is still in operation, has for its main subject these two principal questions.

Income-tax.—In regard to income-tax natural persons and legal persons respectively are subject to different regulations. The liability of natural persons is governed by the Income-tax Law (RGBl. I, pp. 189, 208), whereas that of legal persons falls under the Corporation Tax-law. The following are liable to income-tax without restriction, to whatever State they may belong: all persons who are domiciled in the German *Reich* or reside there more than six months. In addition, a series of persons are liable to restricted income-tax irrespective of their State, domicile or residence. Under this head fall specially incomes from an occupation carried on in Germany, either industrial or professional, and incomes from capital investments in Germany, such as hypothecs, shares, loans, etc. These persons are taxed on their income. The law distinguishes between certain particular kinds of income, such as those derived from the exploitation of land and forests, from industrial undertakings, from other independent occupations, from work done in the employment of others, from the letting of houses and lands, from other income of a recurrent nature and deals finally with several special cases, such as, for example, certain speculative enterprises. It is only incomes falling into one or other of these classes which are taxed. The incomes liable to taxation are those received within the financial year. The distinction between the different kinds of income is specially important because different rules apply in calculating the net income, *i.e.* the amount liable to taxation. A difference of peculiar importance in practice is in the mode of collection. Income from wages and income from invested capital are taxed at the source, whereas, in other cases, they are collected by a demand note. In this respect German income-tax legislation since the year 1920 has adopted the English practice.

As a general principle, taxation under the income-tax law is based upon the income actually received by the taxpayer. There is, however, one exception. There is a class of persons who, as a matter of fact,

spend a large sum which does not proceed from income liable to taxation, but is taken out of capital. In the strained economic situation it does not seem just that such persons should escape taxation. Accordingly, under certain restrictions, the tax may be levied on the amount spent instead of on the income. This practice has been adopted from the laws applicable to foreigners in Switzerland and France. The expenditure must be at least 15,000 marks a year and must be at least half as much again as the income.

For the first 8,000 marks or under the tax is at the rate of 10 per cent. and it rises gradually, *e.g.* from 8,000 to 16,000 marks it is 15 per cent., from 16,000 to 28,000 marks it is 25 per cent., until it reaches the highest scale of 40 per cent. on incomes exceeding 80,000 marks.

Corporation and Partnership Tax.—As already stated, corporations and partnerships are subject to special taxation based on a law of August 10, 1924 (RGBl. I, p. 208). In particular, all companies and partnerships are liable to taxation whose purpose it is to carry on a business, *e.g.* joint-stock companies and partnerships with limited liability. In addition, there fall under this head a number of other jural persons. All these corporations are liable to taxation if they are domiciled in Germany or have the seat of their administration there. Moreover, there is a liability to taxation on income received in Germany as to all companies, partnerships, etc., whose domicile or seat of administration is abroad as well as for such bodies carried on with German capital. The importance of the corporation taxing statute is twofold. In the first place, there are special provisions appropriate to the special economic character of these operations as to the method of determining the taxable income. In the second place, the scale of taxation is lower in order to prevent the inevitable double taxation of the companies and of their members from being too oppressive.

Property Tax.—The liability to taxation of natural persons and of groups of persons is regulated on lines similar to those of the income-tax and corporation-tax. The property liable to taxation is that possessed on January 1 of each year, and it is taxed according to a scale running from 2 per thousand on property up to 10,000 marks, 3 per thousand up to 25,000 marks, 4 per thousand up to 50,000, and 5 per thousand on property of greater value.

Valuation of Property.—There are a number of separate taxes which are levied upon property. As regards taxation by the *Reich* we have the Property Tax and the Succession Tax, and there are various taxes of the several States levied on the profits of exploitation of land and buildings. Formerly, these taxes were regulated by different rules, and different official bodies were charged with their collection, a situation which led to very unsatisfactory results and to great inequality of taxation. By a special law of August 10, 1924 (RGBl. I, p. 214), general rules as to valuation are prescribed for all those taxes which are levied upon property. Moreover, for the purpose of fixing the value of the property liable to taxation a body has been constituted composed of officials of the *Reich*, of the States, of the local government authorities, and of the tax-payers.

Inter-State Equality of Taxation (Finanzausgleich).—The division of the taxing power between the German *Reich* and the German States is one of the most thorny problems of our constitutional law. Any consideration of this question—equally important from the political and from the financial standpoint—is impossible in the space at my disposal. As

regards the year 1925 there is one point only which it is important to mention. I have already stated that in 1920 the income-tax, which up to that time had been a tax levied by the separate States and local authorities, was transferred to the *Reich*. This led, as it has done in all Federal States, to difficulties by no means unimportant. If the responsibility for its expenditure is taken away from a subordinate public authority the authority is apt to be less economical in its administration than when it is left to manage its own affairs. Moreover, the loss of taxing power as regards income-tax means a great political sacrifice on the part of the separate States. Accordingly, in 1925 an agreement was arrived at under which the separate States and the local authorities should from 1927 onwards have the right to levy income-tax supplementary to the *Reich's* income-tax (Law of August 10, 1925, RGBl. I, p. 254). It was, however, laid down that these supplementary income-taxes should not be imposed until statistics had been compiled from which it was possible to obtain an accurate survey of financial requirements throughout the *Reich*. Moreover, in the interest of economy and of efficient administration there was to be a precise delimitation of the spheres of action of the *Reich*, the separate States and the local authorities respectively. Up to 1927 no final determination of these matters has been reached.

Double Taxation.—In consequence of the ever-increasing complexity of economic relations it happens frequently that a person becomes liable to taxation in several States, as, *e.g.*, when a commercial or industrial undertaking has branches in several countries. It is usual for an attempt to be made by legislation to prevent injustice resulting from such a situation.[1] Like other countries, Germany has a series of treaties as to double taxation, notably with Czechoslovakia, Switzerland, Austria and Hungary. Two such treaties were ratified in 1925, one with Italy (RGBl. II, p. 1159) and the other with the Union of Soviet Republics (RGBl. 1926, II, pp. 1, 39). These agreements are specially important as regards income-tax. Their purpose is in all those cases in which the two States concerned are both entitled to levy taxation, *e.g.* because the taxpayer is a subject of both States, or has a residence in both of them, or resides in one of them and has real property in the other, so to adjust the taxation that it shall not be higher than if the taxation were levied by one State only. When that is impossible the taxation is to be proportionate to the amount of the property liable to taxation which is found in the two States respectively.

Succession Tax and Tax on Gifts (RGBl. I, pp. 237, 320).—An heir or legatee is in principle taxed on the succession. He has to pay a tax on the amount by which he is enriched. In many cases, however, the succession is tax-free, *e.g.* when one spouse succeeds to the other and there are descendants living, or in bequests of household furniture to near relations and so forth. The scale of taxation varies according to the degree of relationship and to the amount of the bequest. It ranges from 2 per cent., which is the rate on a bequest up to 10,000 marks to a relative in the nearest degree, up to 60 per cent., when a sum of more than 10 million marks falls to a person not related to the *de cujus*.

There is further a tax on gifts *inter vivos*, the amount of which is governed by similar principles to those which apply to legacies.

[1] Cf. in England Finance Act, 1923 (13 & 14 George V, c. 14, s. 18) and the Agreement between England and the Irish Free State of April 14, 1926 (Finance Act, 1926, 16 & 17 George V, c. 22, s. 23 and schedule 2).

Civil Law.

[*Contributed by* Dr. Walther Fischer, Rechtsanwalt, Hamburg.[1]]

Valorization Act.—There is one Act of 1925, *viz.* the Valorization Act (*Aufwertungsgesetz*), which in importance so much exceeds the other legislation in civil matters in that year that it is thought best to explain it in a separate article, which will appear later in this *Journal*.

Other laws of 1925 which deserve mention are the following:

Mortgage on Cables.—The Mortgage on Cables Act (*Kabelpfandgesetz*) of March 31, 1925, deserves to be mentioned first if only on account of its peculiar character. It makes it possible to charge with a mortgage deep-sea cables which provide communication with foreign countries. Its importance from the point of view of private law does not consist in the fact that the constitution of the real security requires in this case the sanction of the Postmaster-General, for that, though a novelty, arises in the nature of things. What is more noteworthy is that we have here a real security constituted over moveables. It follows closely the model of a real right over an immoveable according to German civil law. A Cable Book is created, and in order to constitute a mortgage over a cable there are three requisites—the agreement of parties, the registration in the book and the consent of the Postmaster-General. The amount of the mortgage may be stated in the terms of a foreign currency. The currency which has been thus stated cannot be altered to another without the consent of mortgage creditors of the same rank or next in priority. The real security covers not only all accessories but also the personal claim to the rent due to the owner of the cable who grants a lease of it to others. The personal security for the rents is not subject to the extinctive prescription applicable to the security for rents in the case of mortgage over immoveables. The provisions as to the operation of *bona fides* when there is a transfer of the property are interesting. If the mortgage has been registered the ordinary rules which apply to immoveables govern the matter. If the entry in the book has been improperly cancelled, recourse is had to the legal provisions which apply to a moveable object. The creditor obtains satisfaction by process of execution, as in the case of an immoveable. What is unusual is that the creditor can demand that he shall himself be appointed to carry out the execution. A final provision goes very far. A real security over a cable and its accessories can be constituted only according to the provisions of this law. In other cases the creditors rank as ordinary creditors.

There has been in Germany for many years a controversy with regard to registered rights of security over moveables. It might be supposed that we have here the first step in that direction. But this view is hardly justified when we consider the special nature of the case, its infrequency and the fact that the cable is in truth immoveable.

Registration of Mortgages over Immoveables and Ships in Terms of a Foreign Currency.—The possibility of registration in this form is extended by the law of December 18, 1925, until December 31, 1928.

Presumption of Death of Persons missing in War.—The law of February 20, 1925, fixes January 10, 1920, as the furthest date to which one can go back unless a petition for presumption of death was competent at an earlier date, or unless the disappearance of the missing person can be associated with a definite event in the war.

[1] Translated by the Editor.

Bills of Exchange and Cheques.—The law of July 3, 1925, fixes the rate of interest at 2 per cent. over the bank rate at the time (*Reichsbank-diskontosatz*) with a minimum of 6 per cent.

Lastly, there is the ordinance of October 29, 1925, relating to the lapse of the periods allowed for presentation, protest and giving notice which extends until November 10, 1926, the periods mentioned in Art. 301 of the Treaty of Versailles and in the notification of September 30, 1914, prohibiting payments to English creditors.

Foreign Securities.—The ordinance of May 18, 1925, repeals the ordinance of September 22, 1922, forbidding the export, alienation or pledging of foreign securities.

3. UNITED STATES OF AMERICA.[1]

Federal Legislation.

Administration of Justice.—The American Bar Association Bill proposing a federal arbitration statute has become law. Public 401 enacts "The United States Arbitration Act," modelled very closely upon the New York statute. Written arbitration agreements contained in any contract within Admiralty jurisdiction or in any contract involving interstate or foreign commerce are declared to be valid, irrevocable and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract.[2]

Interstate Commerce.—The Commission is directed to effect with the "least practicable delay such lawful changes" as will promote the freedom of movement of agricultural products at the "lowest possible lawful rates compatible with the maintenance of adequate transportation service."

Organization of Government.—A defect in the immigration laws was remedied by a proviso in Public 502 which authorizes any employee of the Bureau of Immigration authorized by the Commissioner-General of Immigration, with the approval of the Secretary of Labour, to arrest without warrant any alien who in his presence or view is entering or attempting to enter the United States in violation of law, and to take the alien immediately before an immigration inspector for examination. Employees so authorized are also empowered to board and search for aliens any vessel, railway car, conveyance or vehicle. Under the prior law such powers were confined to "immigrant inspectors," who are the class of employees authorized actually to inspect and admit aliens to the country.

Beginning March 4, 1925, the compensation of the Vice-President of the United States, the Speaker of the House of Representatives and the members of the Cabinet was increased from $12,000 to $15,000 by Public 624. The Act also raises the salary of Senators and Representatives, Delegates from Territories, and Resident Commissioners from Porto Rico and the Philippine Islands from $7,500 to $10,000.

Health.—The sale in the District of Columbia and the shipment to the District of Columbia for sale of milk, cream or ice cream are regulated by Public 496, which requires a permit from the health officer of the District, after inspection of the dairy, even though outside the District,

[1] Summarized from the 1925 Report of the Committee of the American Bar Association on Noteworthy Changes in Statute Law.

[2] An article prepared by the Association Committee which prepared the draft will be found in the March 1925 number of *The American Bar Association Journal*.

but the health officer may accept the certificate of a State or municipal health office. Suspension of permits is provided for whenever the health officer believes the public health to be in danger by the impurity or unwholesomeness of the milk, cream or ice cream, but the holder of the permit is to be notified of the reasons for the suspension. Milk and cream may be shipped into the District from outside for manufacturing into ice cream without a permit if the milk or cream is produced in accordance with specifications of an authorized medical milk commission or State Board of Health. The health officer is given power to make and enforce reasonable regulations for the preservation of the public health. The Act establishes standards for raw milk, certified milk, pasteurized milk, cream and ice cream, and forbids the sale of any articles not conforming to these standards. No dealer in the District shall receive any milk or cream until he has ascertained that the person from whom he has obtained it holds a licence to ship into the District. A criminal penalty is provided for violation of the Act and of regulations made by the health officer, and, in addition, the permit may be revoked.

Prevention of venereal diseases in the District of Columbia is provided for by Public 494. Reports are required from hospitals, dispensaries and penal institutions, and from judges of the juvenile and criminal courts and from practising physicians. Compulsory medical examination of persons suspected of being afflicted with venereal diseases in a form likely to be a source of infection to others is provided through court proceedings. The health officer of the District is required to " employ and to adopt for the protection of public health all such regulatory measures as may be necessary to prevent the spread of these communicable diseases." A criminal penalty is provided for a violation of the regulations. No person knowingly suffering from a venereal disease in a form likely to be a source of infection to others is permitted to work as a producer or handler of food or drink, or in any profession, trade or occupation " in which by reason of the disease from which he is suffering the public health is endangered."

The health officer is to prepare circulars giving information as to the nature of these diseases, their danger, their communicable character and the proper care to prevent their spread. These circulars are to be distributed by the health officer and by all practising physicians to their patients suffering from these diseases.

Motor Vehicles.—A traffic code for the District of Columbia is provided by Public 561, which creates a director of traffic who is given broad power to make regulations (subject to approval by the District Commissioners) governing all traffic, and to prescribe reasonable penalties of fines or imprisonment not to exceed ten days. The Act provides for operators' permits after practical and theoretical examination, and fixes the maximum rate of speed at twenty-two miles an hour, except in such outlying districts and on such arterial highways as the director may designate, but the director is left free to make a lower rate of speed. Heavy penalties are provided for reckless driving. Conviction of a third offence is punished by a fine of from $100 to $500 and imprisonment between thirty days and one year, together with revocation of the operator's permit. Fleeing from the scene of the accident without reporting it and operation while under the influence of intoxicating liquor or narcotic drugs are also heavily punished. Possession of devices commonly known as smoke screens or the use of such devices or the possession of a motor vehicle equipped with

any such device is made a felony, punishable by imprisonment for from one to five years. Garage and repair shops are required to report within twenty-four hours all motor vehicles brought in showing evidence of having been in an accident or struck with bullets. The director is given power of revocation and suspension of operators' permits upon conviction of a violation of the Act, or, after notice and hearing, for a violation of any regulations.

Foreign Affairs.—The settlement of the indebtedness of foreign countries growing out of the World War is continued by Public 298 and Public 299, which approve settlements made by the World War Foreign Debt Commission in the case of Lithuania and Poland. In each case the settlement is along the lines already authorized in the case of Great Britain, Finland and Hungary. It provides for annual instalments for 62 years with interest on the unpaid balances at 3 per cent. for ten years and thereafter at 3½ per cent. The amount of the obligation in the case of Lithuania is, in round numbers, $6,000,000; in the case of Poland, $179,000,000.

The life of the World War Foreign Debt Commission is extended by Public 327 until February 9, 1927.

With the object of relieving our business men and tourists travelling abroad from the annoyance and expense of securing visés of their United States passports in the case of every country which they may visit, Public 464 authorizes the President to reduce or abolish altogether the fees charged under existing law for the visé by American consular officers of foreign passports. The authority of the President is limited to non-immigrant classes who are citizens of countries which grant similar privileges to United States citizens of a similar class. It is the hope of the State Department that the reduction or abolition of the fee on our part will result in the elimination by foreign countries of the requirement of visés on our passports. It should be noted that the Act does not in any way affect the requirement of a viséd passport for entry into this country.

Prisons and Punishment for Crime.—A United States Industrial Reformatory for the confinement of males between seventeen and thirty years of age, sentenced for more than one year except those previously convicted of an offence punishable for more than a year, and except those convicted of treason, murder, rape or arson or sentenced to life imprisonment, is provided for by Public 305. The reformatory is to be under the control and management of the Attorney-General. The discipline is to be correctional and designed to prevent young offenders from becoming habitual criminals. Instruction in the common branches of an English education is required, and such industrial training as will enable the inmates to become self-supporting. Inmates are to be employed only in the production and manufacture of supplies for the Government for consumption in Government institutions.

A board of advisers is established, composed of the Attorney-General, the Superintendent of Prisons, the Superintendent of the Reformatory, and two citizens appointed by the President.

Prisoners on discharge are to be furnished transportation at the discretion of the Attorney-General, and also suitable clothing and $10 in money.

A probation system is established for the first time in United States courts outside the District of Columbia by Public 596, which authorizes such courts, after conviction or after a plea of guilty for any crime not

punishable by death or life imprisonment, to suspend the imposition or execution of the sentence and place the defendant upon probation for a period not to exceed five years. The court may revoke or modify any of the conditions of probation.

Probation officers are to be appointed by the judge to serve without compensation unless the judge finds that a salaried officer is needed, in which case he may appoint one such officer after civil service examination and fix his salary, subject to the approval of the Attorney-General. At any time after the probation period, but within the maximum period for which the defendant might originally have been sentenced, the defendant may be arrested upon a warrant and the court may revoke the probation or the suspension of sentence and impose any sentence which might originally have been imposed.

Public 348 substitutes electrocution for hanging as the capital punishment in the District of Columbia.

Prohibition.—Enforcement of the prohibition laws is hoped to be assisted by Public 556, which authorizes the Secretary of the Treasury to take and use for the enforcement of the Prohibition Act or of the customs laws any vessel forfeited to the United States for violation of the customs laws.

Admiralty.—Public 546 provides for the bringing of a libel *in personam* in Admiralty in the Federal District Courts against the United States for damages caused by public vessels of the United States and for compensation for towage and salvage services, including contract salvage, rendered to a public vessel of the United States. In the Act of 1920 the United States had previously recognized its liability for damages caused by its merchant vessels or by those of such governmental agencies as the Emergency Fleet Corporation. The two Acts substantially cover the field of Admiralty torts by the Government and are the first instances in which it has through Court proceedings waived its sovereign immunity from liability in a general field of tort claims. The legislation will relieve Congress from further consideration of a burdensome class of private relief bills.

State Legislation.

State Finance.—Perhaps the most interesting financial provision enlarges the business activity of the State. South Dakota by 184 permits the State to go into the business of selling gasolene and use therefor part of the money the State gets under the Motor Fuel Tax Act. Making the oil companies supply the capital for State competition seems to be unique. North Carolina by 210 authorizes the Governor and Council to empower the treasurer to borrow money on short-term notes to meet an emergency arising from destruction of the State property, or if the General Assembly through inadvertence has failed to provide support for a department or institution. South Dakota by 258 makes any public officer of the State or of any municipal corporation who unlawfully appropriates public money or property for his own use a defaulter and he is disqualified from holding public office so long as he remains a defaulter. Delaware by 53 raises the annual salary of the Governor from $4,000 to $7,500, and by 55 also provides a sum of $2,500 a year in the appropriations for 1925–6 to be used as an expense fund to enable the Governor to be " represented officially " at numerous and manifold functions, both of State and nation. Connecticut by 215 authorizes the retirement by the Board of Control

of persons who have had a long service in the State, at a salary equal to one-half their average salary for the preceding five years, except that in a few cases the salary is three-fourths.

The injunction not to hide your light under a bushel is heeded by the legislature. Florida by 10,029 authorizes the Commissioner of Agriculture to advertise the State, and by 10,241 sets up a broadcasting station WFLA to see that people get the State slogan "Watch Florida Lead All." New Mexico by 116 creates a State bureau of publicity under a commissioner appointed by the Governor. The Governor of New Hampshire is authorized, by 113, to appoint a Board of Publicity to advertise the attractions and resources of the State. The State of Delaware goes into the business of advertising by 60, which directs the Director of Markets to prepare advertising matter setting forth the advantages of the State for farming, manufacturing and touring. By 194 Maine authorizes the Governor and Council to investigate the establishment of the State Radio Broadcasting Station.

The sentimental side of State life was not ignored in 1925. Two States, Delaware 258 and Illinois p. 601, adopted State songs, the latter to the tune of "Baby Mine." Colorado by 81 declares the blue columbine the State flower and Kansas 290, New Mexico 115, and Oklahoma 234 decide on State flags. Oklahoma's ensign deserves note. It is an Indian shield depicting defensive war, surmounted by a peace pipe and an olive branch.

Water Power.—Important as an experiment in public development of water power is Porto Rico No. 60, which levies a special tax for three years on real property to make surveys and plans for the development of hydraulic power and the construction of Government-owned plants.

Child Welfare.—Porto Rico by No. 39 creates a Child Welfare Board, to be appointed by the Governor and Senate, of five members, two of whom shall be mothers of families. The board is to revise legislation and to inspect all child-welfare institutes. A secretary is to be appointed by the Commissioner of Health upon recommendation of the board.

Municipal.—Public ownership is extended by Tennessee 61, permitting cities and towns to borrow money to build elevators, docks and facilities for handling freight; by Florida 10,104 which allows counties to go into the business of operating cold-storage plants; and by Pennsylvania No. 203 authorizing boroughs to buy gas wells for municipal supply. Indiana 56 allows municipalities acquiring water-works to issue bonds one-third in amount in excess of the cost for future improvements, but to be spent with the approval of the Public Service Commissioner. Michigan No. 38 also provides a degree of control by requiring publicity of accounts of municipally owned utilities. New Mexico 60 and Michigan No. 359 allow municipal taxes for publicity purposes.

The tendency to consider recreation by authorizing local playgrounds to be provided continues. For example Vermont No. 62, Florida 10,100 and West Virginia 76 passed the standard Bill for this purpose. Indiana 161 prohibits increasing the salaries of local officers for the term for which they are elected.

An interesting development appears in Illinois H.B. No. 631, p. 264, which creates a county bureau of public welfare consolidating in a single department all "State service functions" of the county, care of children, blind, feeble-minded, paupers, insane and county relief. The Act applies only to counties of 500,000 and over.

Porto Rico No. 69 is of interest to city planners. Plans to lay out

any land lots contiguous to cities and towns must be submitted to the proper municipal assembly before approval by the Department of Health. If approved by the insular government and municipality, the plotted land becomes part of the town and streets and other public services are maintained by and become the property of the municipality. If a plan is disapproved by the assembly, appeal is allowed to the District Court. Visitors to Florida will applaud 10,178, which provides for the creation of mosquito abatement districts.

Wisconsin by 198 regulates amendments of city charters, permitting a referendum in all cases and allowing the initiative.

Domestic Relations.—The new freedom of women is being given periodical application by the legislatures. South Carolina No. 171 allows a married woman to sue and be sued as if unmarried. Delaware 228 makes a wife respond alone in damages for her torts and frees her husband. Texas 82 gives the wife the same control over the community property if the husband is deceased or insane as he has if she is dead or insane. The other side of the movement equalizing the sexes comes out in Oklahoma 125 amending a statute allowing a widow damages in tort in case of the husband's death by substituting a "spouse" for "widow," in 124 authorizing an allowance to a "surviving spouse" instead of only a "widow," from a decedent's estate. Arkansas Act 149 abolishes the curtesy of England and allows a widower a third of his deceased wife's real property where she leaves descendants and one-half otherwise. Montana 83 and Nebraska 75 allow either spouse to testify in actions against third parties in respect to torts against the marriage relation.

The reform of adoption laws is rapidly proceeding. Careful investigation before and after adoption is the object. New Jersey 99, Pennsylvania 93, New York 608, New Mexico 5, are examples. The rights of illegitimate children are commanding widespread attention. The duty of support and education of the child by the father and his duty to pay confinement costs are emphasized in the Acts of Iowa 81, Idaho 198, and New York 255 and 533, and actions against him are regulated. New York 515 shows disbelief in the adage "what's in a name," for she prohibits the use of the words "bastard" or "illegitimate" in any public documents, prescribing instead "child born out of wedlock." New Hampshire 26 makes children born of a marriage entered into in good faith legitimate, even if the marriage is annulled. New Mexico punishes child desertion of either parent or a person in charge by six months to five years' imprisonment, and in case of the death of the child, by 108, from ten to sixty years as for second degree murder. Vermont No. 52 applies to deserters of step-children and those who fail to support destitute parents the same punishment as deserters of children. The care of the State is extended by Minnesota 303 to children not feeble-minded but physically or mentally incapable of study in a public school or of adoption. They are to be committed to the State Board of Control as guardians for study and treatment. Pennsylvania 209 requires finger-printing of infants born in any hospital or other place other than a private residence. The person in charge is guilty of a misdemeanour if he does not carry out the Act. California 431 equalizes father and mother by allowing either parent to appoint a guardian of a child with the written consent of the other. Formerly only the father with the written consent of the mother could do so. The Act allows also either parent without such consent to appoint a guardian in respect to property left by such parent. Idaho 198 makes

a man a misdemeanant if he gets a woman except his wife with child and makes it also a misdemeanour for the father of an illegitimate child to refuse to support it.

Marriage and Divorce.—Marriage is made more difficult. A reform which has been widely advocated is embodied in Vermont No. 51 and Michigan No. 107, which require a five-day delay between issuance of a marriage licence and the solemnization of the wedding, unless the judge authorizes an earlier celebration. Vermont accepts the arguments against child marriage in No. 54, prohibiting boys under sixteen or girls under fourteen marrying even with parents' consent, unless they have a judge's certificate that the public good requires the union. Nebraska in 84, on the contrary, repeals its requirements of ten days' delay and substitutes written consent of parents or guardian of a minor. Connecticut by 260 requires both parties to join in the request for a marriage licence in place of one. Oregon 82 is in the contrary direction, allowing a licence to be issued by any county clerk instead of only the clerk of the county of the bride's residence. Important in the interest of eugenics is New Hampshire 138. Formerly licences issued for the wedding of the epileptic, feeble-minded or insane in case the female was over forty-five, and admitted a physician's certificate as proof of freedom from mental trouble. The new law strikes out the age-limit and requires a certificate by a person appointed by the State Board of Health. An important administrative device is the list of afflicted persons kept by the Board, compiled from reports of heads of schools, public and private, of all afflicted children who have left school or become fourteen in the preceding year. On application for a certificate, the issuing officer, if he thinks one party afflicted, must communicate with the Board. Nebraska 84 repeals its Act prohibiting granting a licence if either party is within the Act, and requiring sterilization of feeble-minded before marriage.

Oregon in 269 declares that if a man and woman have cohabited in the State as husband and wife for over a year and children are living as a result thereof, their marriage is valid and the children legitimate. The most interesting divorce Act is South Dakota 219, which adds to causes for divorce, chronic mania for five years, or if confined by order of the court or Insanity Commission. Divorce is granted for this cause only in the option of the court. Nebraska 63 is against precipitate divorce, as it requires a six months' interval between service of the complaint and hearing of an action for divorce. Oklahoma forbids remarriage within six months after divorce and by 119 makes it bigamy for either spouse who marries in another State to cohabit in Oklahoma with the new husband or wife within the period, and equally makes it bigamy to marry within the State. Pennsylvania No. 90 deprives the judge of the right to allow alimony where a divorce was given the husband for the wife's cruelty, a sacrifice on the altar of equality of sexes. California 287 allows husband and wife separate domiciles for divorce depending "on proof of the fact and not upon legal presumptions."

Public Utilities.—The change in transportation effected by the motor-bus is evidenced by the statutes permitting railroad and street railroad systems to substitute motor-buses for cars with the consent of the regulating board, as examples—Nebraska 39, Vermont 90, Massachusetts 125, Connecticut 83, Oklahoma 97, Indiana 122 and New Hampshire 67. Massachusetts adds permission for railroad companies to operate steamers, ferries and docks. California 146 limits to a fixed sum liability of a com-

mon carrier on public highways for baggage. Noteworthy regulations of railways are Wisconsin 312, forbidding the moving of shops or terminals without the consent of the commission, and New Mexico 19, a popular provision, putting the burden of proof on a public utility to prove reasonableness of a rate increase, before the commission. North Dakota departs from the principle of rate-fixing by commissions in 180, which fixes rates for lignite in carload lots. Contrary to economy is Tennessee 129, forbidding one-man car operation in small cities.

Insurance.—New economic necessities probably account for the fact that several legislatures have sanctioned the organization of new types of insurance companies. Arkansas Act 137 authorizes the creation of life-insurance companies to do business "on the stipulated premium plan." Another Arkansas law, Act 139, provides for the organization of and regulates the operations of assessment and industrial insurance companies. California 182 regulates corporations formed to insure land values, and Oklahoma 32 defines the powers and duties of mutual benefit associations doing an assessment life, health or accident business. New Mexico 23 allows insurance companies to guarantee titles to real estate. New York 523 by broadening the definition of "group life insurance" makes it possible for companies writing real insurance to issue policies to members of State police forces and to labour unions. The group insurance business is also defined and regulated by North Carolina 58.

South Dakota 201 and Idaho 70 now make the incontestability of a life-insurance policy contingent upon the insured's living through the two-year period of contestability. North Carolina 82 provides that misrepresentation as to physical condition, except in case of fraud, shall be no defence to an action on a life policy.

Prisons.—North Carolina 165 reorganizes its prison department under a board of seven appointed by the Governor and Senate. The Act covers the important question of prison labour by allowing contracting, but also the board is authorized to employ the convicts directly and dispose of the products of their work for public purposes or in the open market, the object being to make the prisons self-supporting. Indeterminate sentences are provided for and there is an elaborate classification of prisoners. Perhaps the most striking Act in this title is Illinois, p. 502, which vests in the Department of Public Welfare the duty of prescribing rules and regulations for the diminution of sentence on account of good conduct for persons confined in State penal and reformatory institutions.

Crimes.—In the field of police organization against criminals the most interesting statutes are those which create Central Criminal Record Bureaux. Michigan No. 289, North Carolina, p. 228, and Vermont No. 131 are examples of this tendency. All require finger-prints on the arrest of felons and provide for prompt information in respect to criminals. Florida 10,158 makes a step by centralizing copies of all indictments and information on which persons are convicted to State's prison in the Department of Agriculture.

Many States show a tendency to lower minimum sentences. For instance, Texas 129 reduces the minimum on burglary with explosives from twenty-five to twelve years, abolishing the maximum however; Maine 103, the minimum for larceny from four to one year. North Dakota 157 cuts down the punishment for the same crime from one year to three months, but increases the maximum from five to ten years. Oklahoma 59 reduces both maximum and minimum for destroying insured

property and, by 60, for arson, making the minimum in all cases one year where it was formerly four or five and cutting the maximum substantially. On the other hand, Nebraska 104 raises the minimum for stealing cattle from one to three years and Rhode Island 667 raises the maximum for assault with deadly weapon from five to ten years and from two to five for indecent acts.

Banks are specially protected by Tennessee 128, punishing bank robbery by twenty to forty years, and by New Mexico 70, which includes any safe robbing or robbery with intimidation, and makes the penalty five to ninety-nine years. Embezzlement is made a felony instead of a misdemeanour by Delaware 234 and 235.

Interstate crime is made local by Vermont No. 129, which provides that whenever a person does any act in the State in execution of an intended crime which culminates in the commission of a crime within or without the State, he is punishable as if the crime had been committed wholly within the State. Among the newly established crimes, Arizona 22 is noteworthy. This chapter makes it a misdemeanour to contribute a statement or news item to a newspaper published in the State knowing it is untrue and allowing fine or imprisonment on the complaint of the publisher or any person injured by the publication. Idaho 51 adds to the acts which constitute sabotage, slack work or publication of trade secrets. Pennsylvania No. 291 makes unlawful bribing or attempting to bribe professional football or baseball players, boxers or wrestlers. Michigan No. 319 makes false or deceptive advertising a misdemeanour. The same State in No. 83 extends the crime of malicious threat to extort money to cover threats against certain near relatives of the victim.

Aliens.—First in importance of the statutes relating to aliens are those showing the eastward spread of the Pacific Coast Rules against land-holding by aliens incapable of becoming citizens. Arkansas, Act 249, and Kansas 209 adopt the standard statutes, with the precautionary provisions against escaping the consequence of the law by guardianship of minors or corporations.

Oregon 317 creates a special Department of Americanization, an unpaid commission to promote Americanization of adult immigrants, acting with the Department of Education.

The tendency to limit professions to citizens is evident. For example, New Jersey 135, South Dakota 254, require physicians to be citizens, New Jersey adds persons who have declared their intention to become citizens; Michigan No. 272 applies the rule to dentists, West Virginia 21 and Utah 60 to pharmacists, Michigan 353, Tennessee 33, require that certified public accountants be either citizens or declarants. Georgia, p. 286, forbids licensing others than citizens to operate billiard-rooms. The States generally prohibit possession of specified weapons by aliens in their pistol laws, like Wyoming 106; and New York 286 makes it the duty of the district attorney to certify to the federal officers names of aliens convicted of carrying concealed weapons. Oregon 313 forbids fishing in waters in which Oregon and Washington have concurrent jurisdiction, except by citizens or residents for at least a year in the State where a licence is sought.

Colorado 159 limits to citizens and declarants the right to be licensed as shorthand reporter.

By West Virginia 3, special session, applicants for licences to carry weapons must be citizens.

Wills.—Equal rights for women led Nevada, 190, to abolish the rule that marriage extinguishes the authority of an executrix, and to provide expressly that a married woman may be appointed executrix. In applying the same principle to an administratrix, 191, the legislature felt obliged to temper its application by allowing the court on petition of others who would be entitled to letters, discretion, after marriage of an executrix, to revoke her letters.

Proof of wills was the subject of Montana 94, under which wills may be admitted to probate on the testimony of one subscribing witness, and if no subscribing witness resides in the county the Court may direct a photographic copy of the will to be made and presented to a witness residing elsewhere, who may testify on the sight of this copy to the same questions as he would testify to if the original will were present. If no subscribing witness resides in the county and the will cannot be proven by the deposition, the Court may admit the testimony of other witnesses to prove the sanity of the testator and the execution of the will; and as evidence of such execution, it "may admit proof of the handwriting of the testator and of the subscribing witnesses, or any of them." Illinois S.B. 225, p. 608, is an interesting amendment to the Wills Act allowing a County Court to admit the proof of the handwriting of any blind witness to a will in the same way as if the witness had died.

Wyoming by 7 repeals the Act providing for probate of nuncupative wills and by 40 authorizes probate of olographic wills, made in or out of the State, whether witnesses or not, and permits proof as other private writings.

Highways and Motor Vehicles.—The Act of greatest interest in respect to motor vehicles is Massachusetts 346. It is the culmination of the rapidly increasing body of legislation requiring public service motor vehicles to carry bonds or insurance policies to assure payments of damage for injuries caused by them, and applies to all owners of motor vehicles. The policy or bond must be in the amount of $10,000, or securities or cash may be deposited. Forms of policies are to be approved by the Board of Appeal on Motor Vehicles to which the insured may appeal if the insurer cancels his policy. The board may refuse to allow the cancellation.

Central registration of stolen vehicles and frequent publication of lists is another feature of this standard Act, which in its complete form provides for a fund from fees paid to aid in catching auto thieves. Registration of second-hand dealers goes hand in hand with certificates of title as closing a market for the sale of stolen cars. Examples of this Act, more or less complete, are Colorado 136, Oregon 250, Oklahoma 43, South Dakota 225, West Virginia 14, Montana 113, Georgia p. 315, Vermont 70 and Michigan 1. A variation in the usual form is New Jersey 189, which requires a dealer to have a licence to issue bills of sale of cars, which may be revoked by the Commission if the dealer does not take sufficient care to safeguard purchasers against buying stolen cars.

Not only are motor common carriers regulated, they are increasingly taxed for the benefit of the roads. A favourite method is a privilege tax; in case of passengers fixed by multiplying the number of passengers the car will carry by the estimated number of miles it will make in the year. Freight taxes are determined by multiplying allowed freight capacity by miles to be run.

Regulation of driving is another large chapter in automobile legislation.

California 239 permits State officials to examine all applicants for drivers' permits, prohibits permits to persons of unstable mind, drunkards or addicts, and allows an appeal to the Court from the action of the official refusing or revoking a permit. Imprisonment without alternative of fine is increasingly applied to persons who drive while intoxicated or drugged, Tennessee 117, and the rule is applied to second and subsequent offences in a number of States, as Maine 211, Massachusetts 297. Loss of licence as a consequence of conviction is also being adopted as a means of control. Maine orders a licence suspended if probable cause is found on such a charge and the prisoner is out on bail, and revokes the licence on conviction. Tennessee attaches as a consequence of conviction, prohibition of driving in the State for a year. Nevada 166 makes the offence only a misdemeanour, but requires revocation of licence, and adds that if a person is killed by an intoxicated or drugged driver it is a felony. By South Dakota 224 the fine and maximum term in prison are increased, and the new law contains a prohibition of driving for a year after conviction.

An interesting rule of the road in respect to crossing the main highway is Oregon 104, which declares certain specified highways to be primary highways and forbids any person driving a motor vehicle to cross such highways or enter them at more than five miles an hour, subject to penalties for misdemeanour. Removal of misleading road signs, proper road marking and prohibition of advertising signs which obstruct crossings —a widely accepted rule—is the subject of Michigan No. 108 and Wisconsin 96.

Miscellaneous Police Legislation.—The war upon the concealed weapon has produced some new legislation. Nevada 47 makes it a crime to manufacture or import into the State certain weapons or to carry concealed any explosive substance other than fixed ammunition or dirks or daggers. Indiana 207 and Oregon 260 also regulate the possession, sale and use of pistols and revolvers and prescribe an additional penalty for crimes committed by persons armed with such weapons. Illinois p. 339 restricts the carrying of concealed weapons, including daggers and razors. The Act expressly does not deprive a citizen of the right to keep firearms for his protection in his home or place of business. New Jersey 64 also permits a person to have firearms in his place of business or dwelling. West Virginia 95 requires that applicants for licences to carry deadly weapons must be citizens and *bona fide* residents of the State.

The anti-tobacco movement appears to have subsided to some extent. North Dakota 106 limits the prohibition of the sale of cigarettes to persons under the age of twenty-one, and makes any place where cigarettes are sold or kept in violation of the law a nuisance. South Dakota 113 requires an annual licence for the sale of cigarettes or wrappers, and imposes both a licence and a stamp tax on such articles. South Dakota 245 authorizes municipalities to prohibit the use of cigarettes by persons under twenty-one years of age. Arkansas 256 forbids the sale of tobacco to minors under eighteen.

Utah 52 permits the sterilization of persons in the State hospital for the insane and in the State penitentiary who are habitual sexual criminals, insane, imbeciles, feeble-minded or epileptic. Judicial review of the determination to sterilize is provided for. Minnesota 154 allows the sterilization of persons committed as feeble-minded to the guardianship of the State Board of Control after consultation with the superintendent of the State school for feeble-minded, a physician and psychologist, with

the consent of the spouse or nearest relative. The same rule is applied to persons committed as insane and inmates of a State hospital for at least six consecutive months. Maine 208 also permits sterilization in cases of mental disease or feeble-mindedness, with the written consent of the nearest relative or guardian, and that of the patient, if he is mentally capable of giving such consent. Idaho 194 creates a State Board of Eugenics to enforce the sterilization laws of the State, and requires heads of State institutions and departments to report to the board all persons who are feeble-minded, insane, epileptic, habitual criminals, moral degenerates, sexual perverts and likely to become menaces to society. South Dakota 164 provides a method for investigating feeble-minded persons not in the State institutions to determine if sterilization to prevent procreation is desirable. After hearing, such persons may be committed to the institution and proceeded with as other inmates. Parents may have the operation performed at their own expense or that of the county without commitment.

For the protection of local farmers, Montana 31 gives to the Governor the power to establish quarantines with respect to diseases dangerous to animals. Nebraska 7 provides for testing herds of cattle for tuberculosis at the request of 60 per cent. of the owners, representing 51 per cent. of the breeding cattle in a county. Minnesota 340, in order to compel the testing of cattle for tuberculosis, forbids the exhibition at fairs or public shows of untested cattle. Minnesota 193 makes it unlawful to sell cattle at public auction or at a sale by Court order unless tested and found free from disease.

The recent epidemic of poultry diseases probably explains the California 48 and New Jersey 80 laws permitting the establishment of quarantines against the importation of diseased poultry, and Connecticut 199, which provides for inspection and quarantine.

Various attempts have been made to lessen the possibility of the occurrence of fraud in commercial transactions. Georgia p. 310 regulates the auctioning of jewellery and silverware. Connecticut 238 requires a licence from the Superintendent of State Police for auctions of jewellery, silverware and similar objects.

Delaware 203 makes it unlawful for a person registering in a hotel to give a false name or address and to leave without paying his bill. New York 283 punishes solicitation of business for hotels by drivers of public vehicles or public porters on false pretences as to the hotels. Another instance of the application of the sanction of the criminal law for the prevention of fraud is seen in an Oregon law, 278, making it unlawful to sell cows for dairy purposes at a public auction unless they have been milked out within not more than twelve hours of the sale, thus lessening the likelihood of " bagging." North Carolina 14 makes it a misdemeanour to issue or deliver cheques payable by a bank in which the drawer has not funds with which to meet the same.

The billboard has again attracted attention. Connecticut 148, in a billboard taxing law, requires the licensee to display the number and date of issuance of his licence on each advertisement. Nevada 90 regulates billboard advertising which measurably destroys the natural beauty of scenery or obstructs the view of the road ahead.

New aircraft laws have been enacted by Connecticut 249 and Minnesota 406. The Connecticut law establishes the " turn to the right " rule for airways.

Connecticut 269 codifies the State dog laws, and West Virginia 93 now imposes a dog tax to create funds with which to reimburse owners of cattle for losses caused by dogs. Florida 10,108 now gives to canines the status of domestic animals. Tennessee 116 repeals the law prohibiting tipping.

Pennsylvania 347 and New York 277 guard the purses of the sentimental against dubious appeals, the former by forbidding all solicitation for charitable, religious, benevolent, humane or patriotic purposes except by persons duly licensed, the latter by forbidding the wearing of a military or naval uniform by solicitors of alms or contributions.

Criminal Procedure.—Widespread agitation for the better administration of criminal law has resulted in the enactment of many new statutes relating to criminal procedure. Oklahoma 14 makes an appropriation of $5,000 to be expended under the direction of the Governor for the suppression of crime. Delaware 239 attempts to simplify the pleadings in criminal actions by providing that they need not comply with the requirements of the existing common and statutory law, but shall be sufficient if they inform the accused of the nature and cause of the accusation against him. North Dakota 126 attempts to eliminate the differences between pleadings in civil and criminal proceedings. New York 597 now permits a defendant who has been held to answer to be proceeded against by information instead of by indictment, if the defendant consents. New Mexico 145 requires felonies to be prosecuted either by indictment or information, and misdemeanours by information. An indictment can be found with the concurrence of eight out of twelve jurors. South Dakota 197 amends its criminal law to permit the charging in separate counts that one crime has been committed in a different manner or by different means, and where the acts complained of may constitute different crimes, such crimes may be charged in separate counts in the same indictment.

Texas 63 is an Act similar to those passed in many States punishing going about masked, and punishing assaults by masked person or parading masked. The new point is prohibiting going about masked into a church or places where people are assembled for religious services.

Juries.—Women have generally not been obliged to serve as jurors, but have been allowed to escape the ordinary citizen's obligation to assist in the enforcement of laws. In Oregon 148 a member of the fair sex may evidence her determination by notifying the county clerk after receipt of a notice requiring her to serve. Nevada 63 permits a woman who prefers the home fireside to the judicial forum to file a written statement, claiming exemption before January 1. In New Jersey 100 the mothers of one or more minor children are exempted.

The lists of citizens eligible for jury service will be greatly diminished by Nevada 63 adding teachers, dentists, telephone operators, registered pharmacists and men employed in the operation of trains, Oregon 148 exempting practising optometrists, and Montana 51, which exempts members of organized reserves, the army and the national guard, and all persons receiving government disability compensation. South Carolina 27 exempts employees engaged in transportation service of railroads, and South Dakota 132 does not require registered pharmacists to serve.

Colorado 128 no longer permits a person who had declared his intention of becoming a citizen to serve on juries, nor a person who speaks only the "Spanish or Mexican" language; he must speak English to serve.

New Remedies.—Massachusetts 294 permits the parties to a contract to agree that future controversies arising therefrom shall be arbitrated and regulates the procedure to be followed in cases of arbitration. Minnesota 113 includes under the two-year Statute of Limitation all actions against physicians, surgeons, dentists, hospitals or sanitariums for mistake or "failure to cure," whether based on contract or tort.

Courts.—Minnesota 281 permits the Governor to retire a District Court judge who is mentally or physically incapacitated to do his work for six months. Such action can be taken only after judicial review by three District Court judges and by the Supreme Court. Pensions and increased salaries for judges are noteworthy. Colorado 168 pensions at the rate of $3,000 per annum judges of the Supreme Court who have served at least ten years and have attained at least sixty years of age before the end of their periods of service. Michigan 122 pensions at the rate of $5,000 a year Supreme Court judges seventy-five years of age who have served sixteen years in that office. Tennessee 11 fixes the salaries of its Supreme Court judges at $7,500 and awards its judges of Courts of Civil Appeals and its circuit judges annual stipends of $6,500 and $5,000 a year respectively. California 221 provides that judges of the District Courts of Appeal shall receive $8,000 a year, and 114 raises the salaries of Supreme Court judges to $10,000.

New York 227 amends the Children's Court Act to take care of physically handicapped children and those who may be or are totally or partially incapacitated for education or remunerative occupation. Delaware 218 punishes any justice of the peace who makes a false statement approving an account of money received by him in his official capacity.

Decedents' Estates.—The seed of the new freedom of women bears an annual crop of statutes conferring upon them increasing rights to inherit and administer the property of decedents. Pennsylvania 371 equalizes the rights of widow and widower and also abolishes the general preference of males to females in obtaining letters of administration. Another step toward equalization is evidenced by a Pennsylvania law, 372, extending to either parent the right to appoint by will a testamentary guardian for the estate left by such parent to a minor child. New York 606 provides that in the absence of any heirs the inheritance of an intestate decedent's property shall descend to the husband or wife of such decedent. North Carolina 7 makes the husband the heir of the wife in case of intestacy. Wyoming 43 allows a married woman to be an administratrix and another Wyoming Act, 45, contains a similar provision with reference to the appointment of a married woman as an executrix. New York 574 puts mothers and sisters upon equality with fathers and brothers for the purpose of obtaining letters of administration, thus abolishing the former preference of men to women. Delaware 201 now prefers fathers and mothers to brothers and sisters in the disposition of the estates of decedents, and allows the father and mother to share equally instead of having the father take all, as formerly. Illinois p. 344 permits a surviving husband or wife who renounces the benefits of a decedent's will to receive in lieu of dower, as his or her absolute estate, one-third of each parcel of land owned by the decedent at the time of his death.

North Carolina 264 makes charitable bequests valid even though indefiniteness or uncertainty of the beneficiaries or objects exists, and provides that the rule against perpetuities shall not apply to such bequests. Michigan 373 declares that no statutory or common law rule against

perpetuities shall invalidate a trust for "any lawful purpose beneficial to the public as a whole." Connecticut 160 permits charitable trusts as to which no particular purpose or class of purposes is specified.

Corporations.—Shares of stock without par value have again received the stamp of legislative approval in a number of States. Oregon 291 and South Carolina 262 permit existing corporations to change their par value stock into non-par value stock by the simple process of charter amendment. Texas 77, Minnesota 333, Vermont 81, Nevada 4 and Delaware 112 authorize the issuance by stock corporations of stock having no par value. Georgia No. 382 revises its non-par value stock laws and Nevada 177 and Florida 10,096 enact general corporation laws providing for the issue of non-par value stock.

Another plan which the legislatures appear to have viewed with approval is the sale by corporations of stock to their employees. Such action is approved by Indiana 74, New York 178 and Pennsylvania 368. The Indiana and New York laws provide that the employees may purchase such stock on the instalment plan.

Property.—Probably the most noteworthy tendency in property legislation is embodied in the onward march of zoning legislation. Connecticut 242, Missouri p. 307, Maine 209, Idaho 174, Arizona 80, Utah 119, Nebraska 45 and New Hampshire 92 have new zoning laws. Rhode Island 643 extends its existing law to all towns and cities in the State and Kansas 100 likewise grants to all cities of the first and second class the power to zone. Minnesota 112 goes beyond the old law, which allowed the establishment of residence districts in cities of the first class, and now grants to such cities the power to prohibit the erection, alteration or repair in such districts of buildings for any forbidden purpose. New York 394 extends to cities the power to regulate density of population in any given area. Georgia 280 allows counties of not less than 100,000 inhabitants to establish restricted residence districts on petition of 60 per cent. of the owners of the real estate in the district. Pennsylvania 200 now provides for boards of appeals to pass upon decisions of inferior zoning authorities, with the right to create special exceptions in some instances. Arizona 79 regulates the subdivision of tracts of land outside of cities or towns of a certain size and gives to such cities or towns an opportunity to be heard with respect to the desirability of mapping out the land in a way approved by them. Delaware 197 requires that before a record of condemnation can be filed in an eminent domain proceeding the amount awarded must be paid or deposited in Court. New Jersey 72 makes a somewhat similar requirement with respect to the taking of real estate for improvements in cities of the first class, but gives to the city the right to abandon the improvement project if the damages assessed by the Court are too great.

The contract between landlord and tenant has received some attention. Massachusetts 86 requires 30 days' notice in writing before an action can be brought to recover possession of premises occupied by a tenant at will or before a tenant can be dispossessed. Illinois p. 457 regulates the contents of leases by which "concessions" are made to tenants. Kansas 208 preserves to a tenant farmer in certain circumstances who erects buildings and improvements upon his landlord's property pursuant to the terms of his lease the right to receive the fair value of the improvements made, without having to remove them from the property. Missouri p. 281 gives a landlord a lien upon the whole crop

of a tenant to reimburse the landlord for money or supplies used in growing the crop. Nebraska 133 makes it the duty of a lessee who has surrendered a lease of oil, gas or mineral land to execute a written surrender, if the lease has been recorded.

Revision and Amendment of State Constitutions.—A large flock of proposed amendments to the Constitution were hatched in the legislative nest. Increase of salaries, notably of legislators themselves, and proposals having to do with elections are the most numerous, but perhaps the most interesting generally is Oregon's new section added to Article IX, forbidding levy of income or inheritance taxes and prohibiting any amendment to the section before 1940. Indiana takes a contrary view and authorizes taxes on income if the amendment proposed by 224 is adopted. Missouri electors approved a change in Art. VIII by which all " citizens " may vote. Formerly only male citizens and declarants had the right, so women are enfranchised and declarants disfranchised.

Proposed increases in legislative salaries run from increases in fixed amounts, like Michigan, Amendment No. 5, from $800 to $1,200 and from $5 to $10 a day for extra session to increases in daily wage like New Mexico from $5 to $7. Other instances are Idaho, Kansas, Wisconsin and North Dakota. Administrative officers are also included ; by South Dakota, which raises the Governor to $7,500, and also other officials together with the legislators. Wisconsin's proposal raises the Governor to $10,000. California Resolution 70 raises the constitutional officers. Colorado proposes, Resolution 6, to allow the legislature to fix the salaries of the Governor and judges, but no change is allowed during the officer's term. Indiana 223 will forbid, if adopted, increase of term of office or salary during his term, of constitutional officer.

Two important general amendments are Arizona 82, a new Workmen's Compensation Amendment with the very interesting inclusion by reference to certain parts of a compensation law passed at the same session 83 in that the compensation in the Act or the list of industries can be changed only by initiative or referendum, and Florida p. 544 proposing a change in s. 18 of the Declaration of Rights to limit the grant of equality of foreigners with citizens in property rights, to foreigners eligible to become citizens and to allow the legislatures to limit such rights in other foreigners.

Changes in State government are Texas S.J.R. No. 9 to amend Article V so that instead of a board of three prison commissioners, the legislature may put the prisons under such trained " officer or officers " as it may desire. Missouri, if s. 13 of Article XIV is adopted, will forfeit the office of an officer who appoints a relative within the fourth degree to serve the State or a municipality.

Constitutional changes may be made in Nebraska 112 only if 35 per cent. of the total vote cast at the election votes on the amendment.

Labour.—There have been some new workmen's compensation laws, but in general such legislation has largely resulted in what may be called " explanatory " changes and in increases in compensation.

Two new tendencies appear in the child labour laws.[1] Georgia p. 247 forbids factory labour by children under fourteen and night labour by children under the age of sixteen. Children under fifteen are not allowed to work more than eight hours any day or at night by Texas 42, but labour permits may be given to children over twelve. A New Mexico statute,

[1] For a fuller digest of labour laws see *American Labour Legislation Review*, December 1925.

79, does not permit children under fourteen to be employed when public schools are in session. Solicitude for the morals of youth undoubtedly accounts for Connecticut 158, prohibiting minors under sixteen from working in bowling alleys, shoe-shining establishments or poolrooms after 6 p.m. of any day preceding a school session. Wyoming 11 formerly permitted minors to engage in certain occupations with a work permit, but now makes the prohibition absolute. The hours of labour have been subjected to regulation by Porto Rico 18, notably by requiring one day's rest at pay for each six days' work for workers on yearly, monthly or weekly wages.

Commercial Regulations.—It is in this ever-widening field that the influence of groups organized on a nation-wide basis is most clearly seen in the enactment of similar laws in different States. That agricultural groups succeed in registering their wishes at State capitols appears clearly, and only less evident in volume of law is the pressure of other groups. It is not practicable in so short a survey to do more than note a few of the laws, but that neither general public opinion nor legislative initiative is responsible for them seems evident.

The farm group pushing the Agricultural Co-operatives Act made progress. Porto Rico No. 70, Indiana 20, New Mexico 99, Nebraska 80, New Hampshire 33, are the Acts in full. California 154 allows specific enforcement of a marketing contract made by a member with a co-operative and Wisconsin 181 allows damages for breaking or inducing breach of such contracts and injunctions to prevent inducements to breach them. Florida 10,283 exempts these co-operatives from the anti-trust laws, Oregon 237 makes their contracts with members, if filed in a special book kept by the county clerk, public records and so notice. Tennessee 49 sounds a different note. The Commissioner of Agriculture may take proceedings against a co-operative which he thinks is monopolizing trade so as to enhance unduly the price of any product.

Dairy products come in for a larger share of attention than any other article. Health and the interest of a large group both stimulate action. The standardization of legislation suggests co-operative action. A case in point is the Ice Cream Act, of which Tennessee 65, Connecticut 127 and Delaware 204 are examples. Another is the law forbidding use of the words " butter," " cream," " dairy " or the name of a breed of cattle in connexion with sale of butter substitutes. North Dakota 2, Montana 187 and Oregon 112 are examples. Another form of Act forbids sale of manufactured milk containing other fats than milk fats, Maine 137, Oregon 90, or forbids putting fats other than milk fats in milk products, Vermont No. 104; or in butter or cream, Michigan No. 78. California 329 not only regulates imitation milk and oleomargarine, but provides a special fund out of fees for the department to use for enforcement. The anti-foreign fat provision is in a general Pure Milk Act of Indiana 140, requiring milk for sale to conform to standards set by the United States Department of Agriculture and the State Board of Health.

Various Milk Acts of interest are Pennsylvania No. 52, prohibiting sale of milk in eating-places except from bottle; milk must be pasteurized in Indiana 107 and Illinois p. 488. Connecticut 255 prescribes State-wide inspection of dairies and standards of cleanliness of dairies.

The standard Egg Act is adopted in Oregon 246, Utah 85 and California 425.

Another idea which has taken is official grading of products. Besides

statutes fixing official grades of special articles, there are general grading Acts of interest. Arkansas 218 authorizes a board to grade all kinds of products and give certificates, and allows co-operation with the Federal authorities, whose certificates, as well as those of the State, are *prima facie* evidence in the Courts. Thus not only is the purchaser guarded by the official grader, but both parties have a valuable means of settling disputes on a very much contested point, quality of products. Another such Act is Missouri, p. 105, Utah 27 and Colorado 96. The protection of important branches of agriculture against "scabbing" by the unscrupulous is the object of Florida 10,103 and Colorado 95. Florida forbids shipment of oranges immature or unfit for consumption and requires all fruit shipped between certain dates to be approved by a State inspector. Colorado requires an inspection of melons before shipment. A new idea is in California 421, standardizing canned fruit, which provides for a board of appeal of canning experts, to whom appeals may be made from the action of administrative officials.

The farmer is protected in what he buys by the Commercial Fertilizers Act, an example of which is Connecticut 196, and the Pure Seeds Act widely adopted, see Colorado 155. The publicity method of enforcement is depended on, the containers must be labelled, but Utah 65 adds to its Pure Seed Act that the Board of Agriculture may enjoin the sale of seed sold in violation of the law. A Plant Board is set up by Missouri p. 112 with power to make rules to prevent plant pests.

Regulations outside of farm interests are many. The need of protection of the consumer or buyer and to establish and enforce a uniform rule to protect honest producers are evidently voiced by thousands of eloquent tongues. Blue Sky laws are many, original and amended. Wisconsin 381, West Virginia 66, Minnesota 192, North Carolina 190, Indiana 31, Utah 87, testify to the general approval of the principle.

Akin to Blue Sky is Idaho 151, which requires mining promoters to file their literature with the Inspector of Mines before issuing it.

A new standard Caustic or Corrosive Substance Regulation Act requiring labelling is passed by Vermont No. 114, Minnesota 187, Colorado 144, Nevada 52. Georgia No. 209, Michigan No. 57, make the use of naval stores standards of the United States compulsory in the State, and Indiana 86 adopts United States Standard Weights and Measures for the State. Soft drinks have attracted someone's eye. Several States require cleanliness of those who handle and places of production and sale of these increasingly important sources of innocent happiness, and fix standards, see Connecticut 102, Maine 145, Pennsylvania No. 399, New Hampshire 107.

The Truth in Fabrics Act requires labels on wool goods to state the percentage of wool therein. It has passed Wyoming 96 this year. Carrying out an idea from early oleomargarine days, North Dakota 166 requires gasolene or motor fuel mixed with another substance to be coloured to distinguish it from the pure article.

Price discrimination is the object of South Dakota 260, which applies to buyers of grain and forbids them to pay more in one part of the State than in another except to meet legitimate competition. North Dakota 127 amends its similar Act in respect to milk by forbidding discrimination in prices in any case, striking out the former provision making it illegal only when done to destroy competition. Texas 13, a new Cotton Futures Act, makes contracts for future sale of cotton subject to the United States Cotton Futures Act.

Sanitary precautions inspire such Acts as New York 612, declaring food adulterated if produced or kept in insanitary conditions, a broad Act to administer, and Arizona 13, which regulates bakeries and requires the business to be so conducted as to prevent dissemination of disease. The Board of Health administers the Act. Idaho 69 requires that eating-places be kept sanitary, cuspidors must be cleaned daily, and by 24 requires places where food products are made or sold to be sanitary. Idaho 91 illustrates an idea which is increasingly in vogue; it is included under Ice Cream and Soft Drink Acts. Persons who have certain communicable diseases are prohibited from working in eating-places, and applicants for work must be examined by public physicians. Missouri p. 239 looks at spiritual rather than physical cleanliness, for it forbids sale as kosher of meat not kosher.

The aid of the legislators to change a Common Law rule was successfully invoked by innkeepers in New York 400 and Nevada 185. The New York Act exempts the innkeeper from liability where property is lost by fire occasioned without his negligence, and Nevada frees him from liability for articles left in rooms except in case of his gross negligence. Iowa by 183 requires persons operating a business under a trade name to register their real names and addresses with the county recorder and provides a penalty. New Hampshire 159 aids the honest merchant by making it a misdemeanour to distribute printed advertisements containing false statements. Ohio p. 257 by a specific criminal punishment discourages an act certainly subject to civil action. A broker who is insolvent is punished if he accepts money or securities from a customer and causes the customer to lose or if he pledges or sells customers' securities except to protect his lien. The Act also punishes persons who report fictitious sales or make false statements in financial advertisements. Pennsylvania No. 395 is a Conditional Sales Act affecting chattels attached to realty providing for filing such contracts and their validity as against third persons.

Regulation of professions and trades goes on at a rapid pace. Noteworthy is the approach to a modern guild system implied in the requirement that the regulating and licensing board, though appointed by the Governor, be composed of members of the profession or trade regulated. The strongest expression of this sentiment is South Carolina No. 28, creating a Board of Pharmaceutical Examiners to be elected by the State Pharmaceutical Association for six-year overlapping terms and "commissioned" by the Governor to grant and revoke licences. Connecticut 94 allows the Optometric Society to submit a list to the Governor, but does not require him to appoint from it, though he must appoint optometrists. An exception to the rule is Idaho 148, licensing chiropodists under an Advisory Board of Physicians and Surgeons, West Virginia 22 authorizing the State Board of Health to license midwives, and a modification, West Virginia 20, adding two chiropractors to the State Health Board, which becomes a chiropractic licensing authority. Pharmacy is also regulated generally by West Virginia 21 and Idaho 39, while Idaho 23, Kansas 205, adopt a protective rule making it a misdemeanour to use the words "drug," "drug-store," "pharmacist" or "apothecary" except in relation to shops in which registered pharmacists are employed.

Noteworthy in respect to professional licensing are similar Acts passed in Wisconsin 284 and Connecticut 161. Both set up boards to examine applicants for licences to treat the sick as physicians, osteopaths or in

other capacities. Candidates are examined in anatomy, physiology, pathology and diagnosis, and must pass these examinations before being admitted to the examination of the special branch of the healing art they expect to practise. The examiners are not professional. Wisconsin requires them to be laymen. Appeals to a specified County Court is allowed in each Act from decisions of the board. Optometry comes in for the larger share of regulation, see Tennessee 99, Arizona 60, as examples. South Dakota by 257 allows licences to practise medicine to be issued to licensees of the National Board of Medical Examiners. Osteopathy Nevada 118, dentistry Florida 10,109, nursing New Mexico 11, veterinarians Ohio p. 340 and Florida 10,289 are also licensed. A new trade or profession has suddenly jumped into the legislative eye. Cosmetic therapy or beauty culture is regulated under professional boards and licences required in at least seven States—Arkansas 158, Illinois p. 174, New Mexico 141, Missouri p. 240, Connecticut 216, Oregon 75 and Wisconsin 68.

In lines which have no relation to health there are, in addition to the accustomed branches, two new occupations dignified by licences and State regulations under professional board, one is contractors, the other shorthand reporters. North Carolina 318 sets up a contractors' licensing board of contractors, appointed by the Governor, and gives them wide power through authority to grant licences and revoke them for negligence, incompetence or misconduct in the occupation. Colorado 159 does the same for shorthand reporters. The usual Regulation and Licensing Acts were adopted; accountancy requiring accountants to be citizens or declarants, see Tennessee 33, North Dakota 2, Michigan 353, architects Oklahoma 25, architects and engineers South Dakota 163, engineers Arkansas 202, realtors Colorado 147, Georgia p. 325, Oklahoma 129, and Ohio p. 392. Utah 79 amends its Realtors Act to allow investigation of colonization schemes, and Florida 10,233 modifies the usual custom by making county judges and not the realty board the licensing authority with power to revoke.

Farm produce dealers are licensed by the Commissioner of Agriculture Idaho 138; commission merchants by the Market Commissioner Missouri p. 121; and wholesale produce dealers by State officials Wisconsin 389. Georgia p. 211 licenses insurance agents. Montana 182 requires transient retail merchants to have licences and give bonds; 184 licenses itinerant vendors and 183 licenses peddlers of farm produce. Idaho 67 provides that the negotiability of an instrument is not affected by the fact that it is secured by mortgage, and Utah 2 has the same provision, adding that conditions in the mortgage or deed of trust securing a negotiable instrument shall not affect its negotiability.

Prohibition and Narcotics.—The attempt to conform the State prohibition laws to those in the Federal Statute Book does not appear to have made much progress this year. A New Hampshire law, 158, penalizing the possession, sale or transportation of liquor in violation of any Act of Congress, and requiring the seizure by State authorities of liquor transported in violation of any Congressional Statute "now or hereafter in force," appears to embody the only step taken in this direction. This law also requires that prescriptions for intoxicating liquor for medicinal purposes shall be in the form prescribed by the National Prohibition Act.

Apparently patent medicines have been a source of strength to thirsty souls in Arkansas, for a new statute of that State, 121, prohibits the pos-

session of any compound preparation of alcoholic or fermented liquor "commonly called tonics, bitters or medicated liquors." South Dakota 206 makes it a felony to sell or supply liquor to a person under twenty-one. A Wisconsin law, 437, limits the rights of druggists and physicians to procure and prescribe liquor. California 89 carefully regulates the purchase and sale of sacramental wine. The sale of impure liquor is severely punished by Minnesota 221, making it a felony to sell liquor which causes permanent physical or mental disorders to the person drinking it, and South Dakota 205 which makes a person who unlawfully sells or supplies to another liquor which is actually consumed by the recipient and causes his death, guilty of manslaughter. Idaho 11 permits registered pharmacists to dispense denatured alcohol, provided certain warning information is placed on the container in which it is used, while Indiana 10 makes it a misdemeanour to dispose for use as food or drink of any preparation containing wood alcohol.

The home brewer is severely dealt with by Colorado 80, making it a felony to own or operate a still for the manufacture of intoxicating liquor. The difficulty of enforcing the prohibition law is apparent in Iowa 42, making possession of liquor *prima facie* evidence of a breach of the law if found under a search warrant and forfeited by the Court, and another Iowa law, 43, providing that it shall be *prima facie* evidence of the intoxicating and unlawful nature of liquor if a person attempts to destroy such liquor in the presence of an officer or while property is being searched by him. Some of the restrictions on activities of prohibition officers have been removed by a Florida law, 10,273, which permits the execution for search warrant at night, and strikes from the existing law a provision forbidding an officer to break into a house used and occupied as a dwelling.

The legislatures now penalize the doing of acts, some of which are not harmful *per se*, while under the influence of liquor. Indiana 48 makes it a crime to operate a motor vehicle while intoxicated and Utah 5 increases the penalty for operating a motor vehicle while under the influence of liquor or narcotics. (For other similar acts, see Motor Vehicles.) Another Utah law, 21, makes it unlawful to use firearms in hunting while under the influence of liquor. Selling liquor while armed with a deadly weapon is now a felony in Idaho 49. Conspiracy to violate the prohibition laws is punished by Florida 10,209. Ohio p. 77 affords the prohibition inspector the same protection which has heretofore been granted to policemen and sheriffs by making the offence of killing such a person murder in the first degree in the absence of a jury recommendation of mercy. Idaho 61 increases the penalties for violation of its prohibition law.

None of the narcotic legislation appears to be of a novel character. Florida 10,190 enacts a narcotic law providing for the commitment of addicts to the Farm Colony for Epileptics and Feeble-minded, to remain there until cured. Michigan 9 now makes the possession of narcotics an offence. North Carolina 266 adopts the standard of the Federal law, and expressly forbids physicians to administer drugs to habitual users except for the treatment of a malady other than the drug habit. Habitual users are to be treated in public institutions. Iowa 52 now includes peyote in the class of narcotics. The "dope" peddler is now punishable by imprisonment for not less than five years under a Nevada law, 146. In Montana 38 the penalties are also increased so that a person selling or giving drugs to a person of eighteen or under is imprisoned for not less

than five years, nor more than life. Florida 10,189 raises unlawful dealing in narcotics to the status of felony.

An important step towards better enforcement of narcotic laws is taken by California 314 and Maine 189, which make nuisances of premises frequented by drug addicts and used for the purpose of selling narcotics, subjecting such premises to abatement.

Elections.—The privilege of absent-voting is being regarded with increasing favour by the legislators. Two States, Minnesota 278 and Utah 76, now extend the absent-voting principle to registration by voters who are not present in their voting districts on registration day.

Another interesting provision of the Delaware law, arising possibly from a realization of the importance of inducing the voter to vote, requires the striking from the registration books of names of voters who do not exercise the voting franchise.

Taxation.—The increasing popularity of the tax upon motor-vehicle fuels furnishes a very interesting illustration of the imitative tendency of law makers. Out of nine States adopting this type of law for the first time, eight fix the tax at two cents per gallon, Minnesota 297, Missouri p. 282, Kansas 274, Iowa 6, Michigan 2, Porto Rico 52, Ohio p. 294, Wisconsin 11. Rhode Island 679 taxes at the rate of one cent per gallon.

A number of States have increased the tax on motor-vehicle fuels, Connecticut 145 from one to two cents, Wyoming 89 from one to two and one-half cents, Idaho 185, New Mexico 61, South Dakota 228, Tennessee 4 and Maine 212 from two to three cents. In Georgia p. 65 and West Virginia Special Sessions 2 the tax is at the rate of three and one-half cents. Florida 10,025 and Nevada 131 impose a tax of four cents and South Carolina No. 34 increases its tax from three to five cents, the additional two cents being turned over to the counties.

Owners of motor vehicles are also subjected to taxation by Iowa 4 and Utah 117, providing for a tax on public carriers by motor to be determined by the "ton mile" method, and by North Dakota 167, which imposes a tax of $10 per passenger on commercial passenger motors operating between fixed termini, thus attempting to lessen the tax discrimination complained of by the railroads. Connecticut 254 exacts a tax of 3 per cent. of the gross receipts of public-service motor-buses.

A great deal of dissatisfaction with the multiplicity of inheritance taxes has resulted in the adoption of the reciprocity principle. For example, Massachusetts 338 and New York 143 exempt personal property of non-residents decedents from taxation if the State of domicile either exempts residents of New York from taxation or imposes no inheritance tax at all. Pennsylvania No. 391 exempts such property to the same extent as residents of Pennsylvania are exempted from similar taxation by the State of domicile. Connecticut 239 applies a similar rule to tangible personal property, including stock, of decedents.

Banking.—Legislation on cheques shows a tendency to conform to a standard, evidencing organized support. An Act making it due diligence for a bank to forward promptly a cheque payable in another bank so that failure of the payer bank does not render the forwarding bank liable received wide approval, as example, Utah 3, West Virginia 32, Nebraska 29, North Dakota 170. California in its banking law amendment, 312, is interesting in that it assimilates deposit made by a married woman with that made by a minor, each being held exclusively for the depositor. A bank may refuse to pay a cheque when the officers have reason to

believe that the person signing or endorsing the instrument was under the influence of liquor or drug at the time.

Education.—Foremost in interest of Education Acts in 1925 is the Anti-evolution Act of Tennessee, 27, forbidding the teaching of evolution in universities of schools supported in part or in whole from the public funds. The Bible in the schools interested several legislatures; only one southern, Florida 10,262, requires the Bible to be read daily without "sectarian comment" in all public schools, and enforces the prescription by directing the superintendent not to pay a teacher who has not complied. Idaho 35 requires the reading of the Bible without comment or interpretation. A teacher must refer pupils who ask questions to their parents. Oregon 24 approaches the subject of religious education from another angle by excusing children from public schools for 120 minutes a week to attend religious instruction, and Indiana 139 allows pupils in higher educational institutions to elect courses in Biblical and religious instruction provided by religious organizations and get credit. Utah 57 forbids the teaching of any partisan political or sectarian religious doctrine in the University of Utah or the Agricultural College or that any political or religious test be required as a qualification of any student, instructor or officer thereof.

The movement for teaching the Constitution in schools made wide progress. It is required in public schools, Indiana 108, Arizona 40, also in colleges supported by public funds by Wyoming 94. Florida 10,256 limits its Act to high schools, colleges and universities. The Act is applied to both public and private schools by Kansas 224, which makes it a requisite to graduation, that the student has passed an examination in the course, by Indiana 185, Colorado 151, Oklahoma 171. New Jersey 54, not satisfied with instruction alone, directs that each pupil on graduation from grammar school be given a copy of the Declaration of Independence, the Constitution of the United States and of New Jersey. Idaho 47 inculcates patriotism by requiring instruction in public and private schools in the use of and respect for the flag, and in the words and music of "The Star-spangled Banner" and "America." A practical way of educating children in their duties as voters is incorporated in South Dakota 149, which requires that sample ballots be supplied to each pupil in the seventh to twelfth grades of the schools and each schoolroom receives a card of instructions to voters for each fifty pupils. Oregon 317 creates a Department of Americanization, with an unpaid commission to act with the superintendent of public instruction, and Florida 10,030 has in view not only foreigners but the great flock of northerners on the wing to her shores, by setting up a chair of Americanization and Southern History at the University.

Michigan No. 370 makes it unlawful for pupils of public schools to belong to any secret society, with the sanction that no promotions from grade to grade be made of pupils violating the Act.

Mentally deficient children have been the object of much pedagogical discussion which has flowered into law in South Dakota 152 and Ohio p. 63. South Dakota requires reports of children three or more years retarded, who must be investigated by the Child Welfare Commission, and if necessary the child committed to the home for feeble-minded. Feeble-minded are not to attend public school with normal children. Ohio shuts mentally incapable from schools, and allows them to have employment certificates. Physical health is the subject of Oregon 27, requiring physical

examination and reports of defects to parents, while New Jersey 61 goes further in permitting dental clinics for indigent children. Arkansas Act 117 requires children between eight and twenty-one defective in hearing or sight to attend State schools for the deaf and blind, unless otherwise instructed.

Health.—Arkansas Act 119 authorizes counties to appropriate money to be used by the county judge to promote and protect the public health. Co-operation of the State Board is assured. Wyoming 123 permits the State Board of Health to pass rules and regulations necessary to regulate the sale of domestic salt or prescribe such manner of treatment as has been found practical to prevent goitre from becoming more prevalent.

Iowa 79, California 316, South Dakota 220 and Colorado 133 provide for the licensing and regulation of maternity hospitals. The Colorado law requires such hospitals to inform prospective mothers that they must nurse their children while in the hospital unless excused by the attending physician. A Wisconsin law, 426, permits maternity aid to a mother if her financial circumstances are such as to deprive either her or her child of proper care. The relief may extend from six months before to six months after the child's birth.

An attempt to cope with the shortage of country doctors is Massachusetts 303, which allows towns, not over 3,000 population, by town meeting vote to give $500 for free residence for a school physician, and to appoint this physician to have charge of the town poor and also be inspector of health and town and school physician, but will not therefor be barred from practice.

Uniform State Legislation.—For more complete information in respect to uniform laws passed in 1925 reference is made to the report of the Association's Committee on Uniform Laws. This report gives an idea of the wide field covered by the work of the commissioners and its widely scattered acceptance.

The Uniform Fiduciaries Act met the approval of three legislatures, Utah 86, Wisconsin 227 and Idaho 217. The Conditional Sales Act passed in Pennsylvania 325 and West Virginia 64. Fraudulent conveyances, New York 254, Utah 42; Declaratory Judgments, South Dakota 214 and Utah 24; Aeronautics, South Dakota 6 and Idaho 92; the Stock Transfer Act, Tennessee 91; Arbitration, Nevada 7; Partnership, South Dakota 251. Maine 145 is the Married Women's Registration Act, which requires a married woman to register for voting under both her maiden and her married surnames.

Amendments approved by the commissioners to the Negotiable Instruments Act, to make stolen and lost instruments nevertheless negotiable, were approved by Ohio p. 188, Wisconsin 225, and like changes in the Warehouse Act by Ohio p. 189, Wisconsin 226 and Idaho 87. Delaware 194 modifies the Conditional Sales Act by requiring the seller before retaking goods to pay storage or rent due.

Humane.—New Mexico 133 establishes a home for mental defectives and regulates commitment thereto, with provision for expert testimony at the hearing. The blind as wards of the State are to be cared for by an unpaid commission appointed by the Governor under Colorado 60. Indigent blind are to receive a pension up to $300 a year in cases approved by the county supervisor on recommendation of the commission. The pension is paid by the county with a State contribution. Nevada 32 allows counties to pay relief to needy blind who have been for the pre-

ceding year residents of the county. Delaware 175 authorizes special education for blind children too backward to enter schools for the blind. Pennsylvania No. 413 is a consolidation and revision of the poor law. Iowa 80, regulating child-placing agencies, follows a rule widely adopted, requiring a bond to protect the public against a child's becoming a public expense before a child can be brought into the State for adoption or placing out. Arizona 9 is another phase of the non-resident foreign public charge. The Board of State Institutions is directed to co-operate with the Inspector-General of Immigration and Boards in home countries to arrange return of aliens in institutions or on discharge from prisons and to return residents of other States to their homes when they become public charges.

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